

Senate Bill 222

By: Senators Unterman of the 45th, Hill of the 4th, Williams of the 19th, Grant of the 25th  
and Goggans of the 7th

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 reassign 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 provide for a board for each agency; to reconstitute the Board of Community Health; to  
7 abolish the Board of Human Resources; to establish the position of State Health Officer; to  
8 establish the Behavioral Health Coordinating Council; to amend various titles for purposes  
9 of conformity; to provide for related matters; to provide an effective date; to repeal  
10 conflicting laws; and for 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 ~~31-5A-2.~~ 31-2-2.

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

89 (1) 'Board' means the State Board of ~~Community~~ Health established under Code Section  
 90 ~~31-5A-3~~ 31-2-3.

91 (2) 'Commissioner' means the commissioner of ~~community~~ health established under  
 92 Code Section ~~31-5A-6~~ 31-2-6.

93 (3) 'Department' means the Department of ~~Community~~ Health established under Code  
 94 Section ~~31-5A-4~~ 31-2-4.

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

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

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

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

105 (8)(4) ~~'Predecessor agency or unit'~~ means the State Personnel Board, solely with respect  
 106 to actions regarding the state health benefit plan, the Health Planning Agency, and the  
 107 Department of Medical Assistance Department of Community Health, the Division of  
 108 Public Health of the Department of Human Resources, and the Office of Regulatory  
 109 Services of the Department of Human Resources.

110 (9)(5) ~~'State health benefit plan'~~ means the health insurance plan authorized under Article  
 111 1 of Chapter 18 of Title 45 and Part 6 of Article 17 of Chapter 2 of Title 20.

112 (10)(6) ~~'State Personnel Board'~~ means the board established under Article IV, Section III  
 113 of the Constitution.

114 ~~31-5A-3.~~ 31-2-3.

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

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

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

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

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

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

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

145 ~~31-5A-4.~~ 31-2-4.

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

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

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

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

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

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

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

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

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

190 (A) Raise awareness of women's nonreproductive health issues;

191 (B) Inform and engage in prevention and education activities relating to women's  
 192 nonreproductive health issues;

193 (C) Serve as a clearing-house for women's health information for purposes of planning  
 194 and coordination;

195 (D) Issue reports of the office's activities and findings; and

196 (E) Develop and distribute a state comprehensive plan to address women's health  
 197 issues.

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

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

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

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

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

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

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

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

236 ~~(6)~~(4) Is authorized to appoint a health care work force policy advisory committee to  
 237 oversee and coordinate work force planning activities;

238 ~~(7)~~(5) Is authorized to solicit and accept donations, contributions, and gifts and receive,  
 239 hold, and use grants, devises, and bequests of real, personal, and mixed property on  
 240 behalf of the state to enable the department to carry out its functions and purposes; and  
 241 ~~(8)~~(6) Is authorized to award grants, as funds are available, to hospital authorities and  
 242 hospitals for public health purposes, pursuant to Code Sections 31-7-94 and 31-7-94.1;:  
 243 (7) Shall make provision for meeting the cost of hospital care of persons eligible for  
 244 public assistance to the extent that federal matching funds are available for such  
 245 expenditures for hospital care. To accomplish this purpose, the department is authorized  
 246 to pay from funds appropriated for such purposes of the amount required under this  
 247 paragraph into a trust fund account which shall be available for disbursement for the cost  
 248 of hospital care of public assistance recipients. The commissioner, subject to the  
 249 approval of the Office of Planning and Budget, on the basis of the funds appropriated in  
 250 any year, shall estimate the scope of hospital care available to public assistance recipients  
 251 and the approximate per capita cost of such care. Monthly payments into the trust fund  
 252 for hospital care shall be made on behalf of each public assistance recipient and such  
 253 payments shall be deemed encumbered for assistance payable. Ledger accounts  
 254 reflecting payments into and out of the hospital care fund shall be maintained for each of  
 255 the categories of public assistance established under Code Section 49-4-3. The balance  
 256 of state funds in such trust fund for the payment of hospital costs in an amount not to  
 257 exceed the amount of federal funds held in the trust fund by the department available for  
 258 expenditure under this paragraph shall be deemed encumbered and held in trust for the  
 259 payment of the costs of hospital care and shall be rebudgeted for this purpose on each  
 260 quarterly budget required under the laws governing the expenditure of state funds. The  
 261 state auditor shall audit the funds in the trust fund established under this paragraph in the  
 262 same manner that any other funds disbursed by the department are audited.

263 ~~31-5A-5.~~ 31-2-5.

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

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



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

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

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

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

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

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

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

320 (e) On July 1, 2009, the department shall receive custody of the state owned real property  
 321 in the custody of the predecessor agency or unit on June 30, 2009, and which pertains to  
 322 the functions transferred to the department by this chapter.

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

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

331 ~~31-5A-6. 31-2-6.~~

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

337 ~~31-2-1.~~

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

342 ~~(1) Provide epidemiological investigations and laboratory facilities and services in the~~  
 343 ~~detection and control of disease, disorders, and disabilities and to provide research,~~  
 344 ~~conduct investigations, and disseminate information concerning reduction in the~~  
 345 ~~incidence and proper control of disease, disorders, and disabilities;~~

- 346 ~~(2) Forestall and correct physical, chemical, and biological conditions that, if left to run~~  
347 ~~their course, could be injurious to health;~~
- 348 ~~(3) Regulate and require the use of sanitary facilities at construction sites and places of~~  
349 ~~public assembly and to regulate persons, firms, and corporations engaged in the rental~~  
350 ~~and service of portable chemical toilets;~~
- 351 ~~(4) Isolate and treat persons afflicted with a communicable disease who are either unable~~  
352 ~~or unwilling to observe the department's rules and regulations for the suppression of such~~  
353 ~~disease and to establish, to that end, complete or modified quarantine, surveillance, or~~  
354 ~~isolation of persons and animals exposed to a disease communicable to man;~~
- 355 ~~(5) Manufacture drugs and biologicals which are not readily available on the market and~~  
356 ~~not manufactured for commercial purposes, when expressly authorized and shown on the~~  
357 ~~minutes of the department; to procure and distribute drugs and biologicals and purchase~~  
358 ~~services from clinics, laboratories, hospitals, and other health facilities and, when~~  
359 ~~authorized by law, to acquire and operate such facilities;~~
- 360 ~~(6) Cooperate with agencies and departments of the federal government and of the state~~  
361 ~~by supplying consultant services in medical and hospital programs and in the health~~  
362 ~~aspects of civil defense;~~
- 363 ~~(7) Detect and relieve physical defects and deformities and provide treatment for mental~~  
364 ~~and emotional disorders and infirmities;~~
- 365 ~~(8) Promote the prevention, early detection, and control of problems affecting the dental~~  
366 ~~health of the citizens of Georgia;~~
- 367 ~~(9) Contract with county boards of health to assist in the performance of services~~  
368 ~~incumbent upon them under Chapter 3 of this title and, in the event of grave emergencies~~  
369 ~~of more than local peril, to employ whatever means may be at its disposal to overcome~~  
370 ~~such emergencies;~~
- 371 ~~(10) Contract and execute releases for assistance in the performance of its functions and~~  
372 ~~the exercise of its powers and to supply services which are within its purview to perform;~~
- 373 ~~(11) Enter into or upon public or private property at reasonable times for the purpose of~~  
374 ~~inspecting same to determine the presence of disease and conditions deleterious to health~~  
375 ~~or to determine compliance with health laws and rules, regulations, and standards~~  
376 ~~thereunder;~~
- 377 ~~(12) Promulgate and enforce rules and regulations for the licensing of medical facilities~~  
378 ~~wherein abortion procedures under subsections (b) and (c) of Code Section 16-12-141 are~~  
379 ~~to be performed; and, further, to disseminate and distribute educational information and~~  
380 ~~medical supplies and treatment in order to prevent unwanted pregnancy; and~~
- 381 ~~(13) Establish, by rule adopted pursuant to Chapter 13 of Title 50, the 'Georgia~~  
382 ~~Administrative Procedure Act,' a schedule of fees for laboratory services provided;~~

383 ~~schedules to be determined in a manner so as to help defray the costs incurred by the~~  
 384 ~~department, but in no event to exceed such costs, both direct and indirect, in providing~~  
 385 ~~such laboratory services, provided no person shall be denied services on the basis of his~~  
 386 ~~inability to pay. All fees paid thereunder shall be paid into the general funds of the State~~  
 387 ~~of Georgia. The individual who requests services authorized in this Code section shall~~  
 388 ~~pay the fee. As used in this Code section, the term 'individual' means a natural person.~~

389 ~~31-2-2:~~ 31-2-7.

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

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

415 When a plan is required to be approved by any department, agency, or instrumentality of  
 416 the federal government as condition precedent to the making of grants for health purposes,  
 417 the department, as agent of this state, is directed to formulate, submit, and secure approval  
 418 of that plan and thereafter, upon its approval and the receipt of funds payable thereunder,

419 to carry the plan into effect in accordance with its terms, applying thereto the funds so  
420 received as well as other applicable amounts from whatever source.

421 ~~31-2-3.~~ 31-2-8.

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

424 ~~31-2-4.~~ 31-2-9.

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

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

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

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

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

450 (4) Waivers or variances which affect an entire class of facilities may only be approved  
451 by the State Board of Human Resources Health and shall be for a time certain, as  
452 determined by the board. A notice of the proposed variance or waiver affecting an entire

453 class of facilities shall be made in accordance with the requirements for notice of rule  
454 making in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; or

455 (5) Variances or waivers which affect only one facility in a class may be approved or  
456 denied by the department and shall be for a time certain, as determined by the  
457 department. The department shall maintain a record of such action and shall make this  
458 information available to the board and all other persons who request it.

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

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

465 ~~31-2-5.~~ 31-2-10.

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

470 ~~31-2-6.~~ 31-2-11.

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

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

481 (1) Knowingly made any false statement of material information in connection with the  
482 application for a license, or in statements made or on documents submitted to the  
483 department as part of an inspection, survey, or investigation, or in the alteration or  
484 falsification of records maintained by the agency, facility, institution, or entity;

485 (2) Failed or refused to provide the department with access to the premises subject to  
486 regulation or information pertinent to the initial or continued licensing of the agency,  
487 facility, institution, or entity;

488 (3) Failed to comply with the licensing requirements of this state; or

489 (4) Failed to comply with any ~~provisions~~ provision of this Code section.

490 (c) When the department finds that any applicant or licensee has violated any ~~provisions~~  
491 provision of subsection (b) of this Code section or laws, rules, regulations, or formal orders  
492 related to the initial or continued licensing of the agency, facility, institution, or entity, the  
493 department, subject to notice and opportunity for hearing, may take any of the following  
494 actions:

495 (1) Refuse to grant a license; provided, however, that the department may refuse to grant  
496 a license without holding a hearing prior to taking such action;

497 (2) Administer a public reprimand;

498 (3) Suspend any license, ~~permit, registration, or commission~~ for a definite period or for  
499 an indefinite period in connection with any condition which may be attached to the  
500 restoration of said license;

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

506 (5) Revoke any license;

507 (6) Impose a fine, not to exceed a total of \$25,000.00, of up to \$1,000.00 per day for  
508 each violation of a law, rule, regulation, or formal order related to the initial or ongoing  
509 licensing of any agency, facility, institution, or entity, except that no fine may be imposed  
510 against any nursing facility, nursing home, or intermediate care facility which is subject  
511 to intermediate sanctions under the provisions of 42 U.S.C. Section 1396r(h)(2)(A), as  
512 amended, whether or not those sanctions are actually imposed; or

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

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

520 (d)(1) With respect to any facility classified as a nursing facility, nursing home, or  
521 intermediate care home, the department may not take an action to fine or restrict the  
522 license of any such facility based on the same act, occurrence, or omission for which:

523 (A) The facility has received an intermediate sanction under the provisions of 42  
524 U.S.C. Section 1396r(h)(2)(A), as amended, or 42 U.S.C. Section 1395i-3(h)(2)(B); or

525 (B) Such facility has been served formal notice of intent to take such a sanction which  
526 the ~~Department of Community Health~~ department based on administrative review or  
527 any other appropriate body based on administrative or judicial review determines not  
528 to impose; provided, however, that nothing in this subsection shall prohibit the  
529 department from utilizing the provisions authorized under subsection (f) of this Code  
530 section.

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

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

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

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

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

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



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

564 (h) For the purpose of conducting any investigation, inspection, or survey, the department  
565 shall have the authority to require the production of any books, records, papers, or other  
566 information related to the initial or continued licensing of any agency, facility, institution,  
567 or entity.

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

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

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

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

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

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

595 ~~31-2-7.~~ 31-2-12.

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

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

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

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

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

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

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

634 (c)(1) This subsection shall not be construed to prohibit the governing authority of any  
635 county or municipality in the state from adopting and enforcing codes at the local level;  
636 provided, however, that no county, municipality, or state agency may require any  
637 certified septic tank installer or certified septic tank pumper who has executed and  
638 deposited a bond as authorized in paragraph (2) of this subsection to give or furnish or  
639 execute any code compliance bond or similar bond for the purpose of ensuring that all  
640 construction, installation, or modifications are made or completed in compliance with the  
641 county or municipal ordinances or building and construction codes.

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

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

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

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

669 ~~31-2-8:~~ 31-2-13.

670 Until July 1, 2012, the department shall provide by rule or regulation for the regulation of  
 671 any land disposal site that receives septic tank waste from only one septic tank pumping  
 672 and hauling business and which as of June 30, 2007, operated under a valid permit for such  
 673 activity as issued by the department (previously known as the Department of Human  
 674 Resources for these purposes) under this Code section. No new permit shall be issued by  
 675 the department under this Code section for such type of site on or after July 1, 2007, but  
 676 instead any new permit issued for such type of site on or after such date shall be issued by  
 677 the Department of Natural Resources under Code Section 12-8-41. This Code section shall  
 678 stand repealed on July 1, 2012.

679 ~~31-2-9:~~ 31-2-14.

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

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

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

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

- 695 (1) Establish a link between state agencies and offices, including but not limited to the  
 696 ~~department's~~ Division of Aging Services; and Division of Family and Children Services;  
 697 ~~and Division of Mental Health, Developmental Disabilities, and Addictive Diseases of~~  
 698 the Department of Human Services, the Department of Behavioral Health, local  
 699 government agencies, health care providers, hospitals, nursing homes, and jails to collect  
 700 data on suicide deaths and attempted suicides;  
 701 (2) Work with public officials to improve firearm safety;  
 702 (3) Improve education for nurses, judges, physician assistants, social workers,  
 703 psychologists, and other counselors with regard to suicide education and prevention and

- 704 expand educational resources for professionals working with those persons most at risk  
 705 of suicide;
- 706 (4) Provide training and minimal screening tools for clergy, teachers and other  
 707 educational staff, and correctional workers on how to identify and respond to persons at  
 708 risk of suicide;
- 709 (5) Provide educational programs for family members of persons at an elevated risk of  
 710 suicide;
- 711 (6) Develop standardized protocols to be used by the ~~Department of Human Resources~~  
 712 department in reviewing suicide death scene investigations;
- 713 (7) Work to increase the number of follow-back studies of suicides;
- 714 (8) Work to increase the number of hospitals that code for external ~~cause of injuries~~  
 715 causes of injury;
- 716 (9) Implement a state-wide reporting system for reporting suicides;
- 717 (10) Support pilot projects to link and analyze information on self-destructive behavior  
 718 from various, distinct data systems; and
- 719 (11) Perform such other tasks as deemed appropriate to further suicide education and  
 720 prevention in Georgia.
- 721 (d) The Suicide Prevention Program shall be provided staff to consist of a full-time  
 722 coordinator, half-time data analyst/epidemiologist, and administrative support, all subject  
 723 to available funding.

724 31-2-15.

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

726 (1) 'Conviction' means a finding or verdict of guilty or a plea of guilty regardless of  
 727 whether an appeal of the conviction has been sought.

728 (2) 'Crime' means commission of the following offenses:

729 (A) A violation of Code Section 16-5-1, relating to murder and felony murder;

730 (B) A violation of Code Section 16-5-21, relating to aggravated assault;

731 (C) A violation of Code Section 16-5-24, relating to aggravated battery;

732 (D) A violation of Code Section 16-5-70, relating to cruelty to children;

733 (E) A violation of Code Section 16-5-100, relating to cruelty to a person 65 years of  
 734 age or older;

735 (F) A violation of Code Section 16-6-1, relating to rape;

736 (G) A violation of Code Section 16-6-2, relating to aggravated sodomy;

737 (H) A violation of Code Section 16-6-4, relating to child molestation;

738 (I) A violation of Code Section 16-6-5, relating to enticing a child for indecent  
 739 purposes;

- 740 (J) A violation of Code Section 16-6-5.1, relating to sexual assault against persons in  
 741 custody, detained persons, or patients in hospitals or other institutions;
- 742 (K) A violation of Code Section 16-6-22.2, relating to aggravated sexual battery;
- 743 (L) A violation of Code Section 16-8-41, relating to armed robbery;
- 744 (M) A violation of Code Section 30-5-8, relating to abuse, neglect, or exploitation of  
 745 a disabled adult or elder person; or
- 746 (N) Any other offense committed in another jurisdiction that, if committed in this state,  
 747 would be deemed to be a crime listed in this paragraph without regard to its designation  
 748 elsewhere.
- 749 (3) 'Criminal record' means any of the following:
- 750 (A) Conviction of a crime;
- 751 (B) Arrest, charge, and sentencing for a crime where:
- 752 (i) A plea of nolo contendere was entered to the charge;
- 753 (ii) First offender treatment without adjudication of guilt pursuant to the charge was  
 754 granted; or
- 755 (iii) Adjudication or sentence was otherwise withheld or not entered on the charge;  
 756 or
- 757 (C) Arrest and being charged for a crime if the charge is pending, unless the time for  
 758 prosecuting such crime has expired pursuant to Chapter 3 of Title 17.
- 759 (4) 'Facility' means a:
- 760 (A) Personal care home required to be licensed or permitted under Code Section  
 761 31-7-12; or
- 762 (B) Private home care provider required to be licensed under Article 13 of Chapter 7  
 763 of Title 31.
- 764 (5) 'GCIC' means the Georgia Crime Information Center established under Article 2 of  
 765 Chapter 3 of Title 35.
- 766 (6) 'GCIC information' means criminal history record information as defined in Code  
 767 Section 35-3-30.
- 768 (7) 'License' means the document issued by the department to authorize the facility to  
 769 operate.
- 770 (8) 'Owner' means any individual or any person affiliated with a corporation, partnership,  
 771 or association with 10 percent or greater ownership interest in a facility providing care  
 772 to persons under the license of the facility in this state and who:
- 773 (A) Purports to or exercises authority of the owner in a facility;
- 774 (B) Applies to operate or operates a facility;
- 775 (C) Maintains an office on the premises of a facility;
- 776 (D) Resides at a facility;

777 (E) Has direct access to persons receiving care at a facility;  
778 (F) Provides direct personal supervision of facility personnel by being immediately  
779 available to provide assistance and direction during the time such facility services are  
780 being provided; or  
781 (G) Enters into a contract to acquire ownership of a facility.

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

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

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

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

811 (B) The department may either perform criminal background checks under agreement  
812 with the GCIC or contract with the GCIC and appropriate law enforcement agencies  
813 which have access to GCIC and Federal Bureau of Investigation information to have

814 those agencies perform for the department criminal background checks for owners. The  
815 department or the appropriate law enforcement agencies may charge reasonable fees  
816 for performing criminal background checks.

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

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

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

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



851 (e) The requirements of this Code section are supplemental to any requirements for a  
 852 license imposed by Article 3 of Chapter 5 of Title 49 or Article 11 of Chapter 7 of this title.  
 853 (f) The department shall promulgate written rules and regulations to implement the  
 854 provisions of this Code section.

855 ~~31-5A-7:~~ 31-2-16.

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

864 ~~31-5A-8:~~ 31-2-17.

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

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

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

871 (3) 'Georgia biotechnology, biopharmaceutical, or pharmaceutical company' means a  
 872 biotechnology, biopharmaceutical, or pharmaceutical company, or a corporate division  
 873 of such a company:

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

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

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

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

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

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

883 (5) 'Research and development' means experimental or laboratory activity for the  
 884 ultimate purpose of developing new products, improving existing products, developing

885 new uses for existing products, or developing or improving methods for producing  
886 products.

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

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

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

907 **SECTION 1-2.**

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

910 "31-1-1.

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

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

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

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

915 **SECTION 1-3.**

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

917 "31-1-10.

918 (a) The position of State Health Officer is created. The commissioner of health or the  
 919 director of the Division of Public Health of the Department of Health shall be the State  
 920 Health Officer, as designated by the Governor.

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

923 **SECTION 1-4.**

924 The following Code sections of the Official Code of Georgia Annotated are amended by  
 925 replacing "Department of Community Health" wherever it occurs with "Department of  
 926 Health":

927 (1) Code Section 9-2-21, relating to parties to actions to torts and notice to the  
 928 Department of Community Health for a party who has received medical assistance  
 929 benefits;

930 (2) Code Section 19-10A-2, relating to the definition of the term "medical facility" for  
 931 purposes of the "Safe Place for Newborns Act of 2002";

932 (3) Code Section 19-11-27, relating to accident and sickness insurance coverage for  
 933 children;

934 (4) Code Section 20-3-476, relating to authorization and administration of loan program  
 935 for attendance at Colleges of Osteopathic Medicine;

936 (5) Code Section 20-3-511, relating to employment of staff and director for the State  
 937 Medical Education Board;

938 (6) Code Section 20-3-513, relating to determination of amount of a medical loan or  
 939 scholarship by the State Medical Education Board;

940 (7) Code Section 20-3-516, relating to funds for medical loans or scholarships;

941 (8) Code Section 24-9-47, relating to disclosure of AIDS confidential information;

942 (9) Code Section 25-2-13, relating to buildings presenting special hazards to persons or  
 943 property;

944 (10) Code Section 26-4-115.1, relating to requirement that certain wholesale distributors  
 945 of controlled substances and dangerous drugs provide price and quantity information;

946 (11) Code Section 26-4-118, relating to the Pharmacy Audit Bill of Rights;

947 (12) Code Section 31-6-2, relating to definitions relative to state health planning and  
 948 development;

949 (13) Code Section 31-6-21, relating to the Department of Community Health generally  
 950 relative to state health planning and development;

951 (14) Code Section 31-6-47, relating to exemptions from certificate of need requirements;

- 952 (15) Code Section 31-7-1, relating to definitions relative to regulation of hospitals and  
953 related institutions;
- 954 (16) Code Section 31-7-75, relating to the functions and powers of hospital authorities;
- 955 (17) Code Section 31-7-94, relating to grants to hospital authorities;
- 956 (18) Code Section 31-7-94.1, relating to the "Rural Hospital Assistance Act";
- 957 (19) Code Section 31-7-95, relating to funding of medical education provided by hospital  
958 authorities and designated teaching hospitals;
- 959 (20) Code Section 31-7-150, relating to definitions relative to home health agencies;
- 960 (21) Code Section 31-7-250, relating to definitions relative to facility licensing and  
961 employee records checks;
- 962 (22) Code Section 31-7-280, relating to annual health care provider reports;
- 963 (23) Code Section 31-7-300, relating to definitions relative to private home care  
964 providers;
- 965 (24) Code Section 31-7-354, relating to authority to enforce laws relating to nursing  
966 homes employee records checks;
- 967 (25) Code Section 31-7-400, relating to definitions relative to hospital acquisition;
- 968 (26) Code Section 31-8-46, relating to investigation of violations by a hospital;
- 969 (27) Code Section 31-8-106, relating to information to be provided to residents upon  
970 admission into a long-term care facility;
- 971 (28) Code Section 31-8-151, relating to definitions relative to the Indigent Care Trust  
972 Fund;
- 973 (29) Code Section 31-8-162, relating to definitions relative to nursing home provider  
974 fees;
- 975 (30) Code Section 31-8-171, relating to definitions relative to quality assessment fees on  
976 care management organizations;
- 977 (31) Code Section 31-8-192, relating to definitions relative to the "'Health Share'  
978 Volunteers in Medicine Act";
- 979 (32) Code Section 31-11-81, relating to definitions relative to emergency services;
- 980 (33) Code Section 31-16-7, relating to reuse of kidney dialyzers;
- 981 (34) Code Section 31-18-3, relating to reporting procedures for traumatic brain and  
982 spinal cord injuries;
- 983 (35) Code Section 31-20-1, relating to definitions relative to performance of sterilization  
984 procedures;
- 985 (36) Code Section 31-21-5, relating to incineration or cremation of dead body or parts  
986 thereof;
- 987 (37) Code Section 31-34-8, relating to funding under the "Physicians for Rural Areas  
988 Assistance Act";

- 989 (38) Code Section 31-43-3, relating to the Commission on Men's Health;
- 990 (39) Code Section 33-19-10, relating to limitation on hospitals with which nonprofit  
991 hospital service corporations are authorized to contract;
- 992 (40) Code Section 33-20A-31, relating to definitions relative to the "Patient's Right to  
993 Independent Review Act";
- 994 (41) Code Section 33-21-29, relating to point-of-service option for persons offered health  
995 care coverage through a health maintenance organization;
- 996 (42) Code Section 33-21A-2, relating to definitions relative to Medicaid care  
997 management organizations;
- 998 (43) Code Section 33-21A-3, relating to certificates of authority for care management  
999 organizations;
- 1000 (44) Code Section 33-21A-4, relating to reimbursement for emergency health care  
1001 services;
- 1002 (45) Code Section 33-21A-5, relating to requirements relating to critical access hospitals;
- 1003 (46) Code Section 33-21A-6, relating to coverage for newborn infants until discharged  
1004 from inpatient care;
- 1005 (47) Code Section 33-21A-7, relating to bundling of provider complaints and appeals;
- 1006 (48) Code Section 33-21A-8, relating to participation by dentists;
- 1007 (49) Code Section 33-21A-9, relating to submission and payment of claims;
- 1008 (50) Code Section 33-21A-11, relating to hospital statistical and reimbursement reports  
1009 from care management organizations;
- 1010 (51) Code Section 33-24-56.1, relating to reimbursement of medical expense or disability  
1011 benefit providers in personal injury cases;
- 1012 (52) Code Section 33-45-3, relating to certificate of authority requirement for operation  
1013 of continuing care facilities;
- 1014 (53) Code Section 36-42-3, relating to definitions relative to the "Downtown  
1015 Development Authorities Law";
- 1016 (54) Code Section 37-2-6.1, relating to community service boards;
- 1017 (55) Code Section 40-2-86.8, relating to special license plates supporting breast cancer  
1018 related programs for the medically indigent;
- 1019 (56) Code Section 40-2-86.21, relating to special license plates promoting certain  
1020 beneficial projects and supporting certain worthy agencies, funds, or nonprofit  
1021 corporations;
- 1022 (57) Code Section 42-5-2, relating to responsibilities of governmental unit with custody  
1023 of inmate generally;
- 1024 (58) Code Section 42-5-54, relating to information from inmates relating to medical  
1025 insurance;

- 1026 (59) Code Section 43-1B-6, relating to entities excepted from prohibitions as to financing  
1027 and referrals;
- 1028 (60) Code Section 43-34-24.1, relating to the Composite State Board of Medical  
1029 Examiners as an independent agency;
- 1030 (61) Code Section 43-34-26.3, relating to delegation of certain medical acts to advanced  
1031 practice registered nurse;
- 1032 (62) Code Section 43-34-27, relating to license requirement for persons engaged in  
1033 practice of medicine;
- 1034 (63) Code Section 44-14-470, relating to liens on causes of action accruing to injured  
1035 persons for costs of care and treatment of injuries arising out of such causes of action;
- 1036 (64) Code Section 45-18-15, relating to rules and regulations for the administration of  
1037 the state employees' health insurance plan;
- 1038 (65) Code Section 45-18-100, relating to definitions relative to the Georgia Retiree  
1039 Health Benefit Fund;
- 1040 (66) Code Section 45-18-102, relating to responsibilities, duties, and powers of the  
1041 department, board, and commissioner of community health with regard to the Georgia  
1042 Retiree Health Benefit Fund;
- 1043 (67) Code Section 49-4-6, relating to reserves, income, and resources to be disregarded  
1044 in determining eligibility for public assistance;
- 1045 (68) Code Section 49-4-141, relating to definitions relative to Medicaid;
- 1046 (69) Code Section 49-4-142, relating to the authorization of the Department of  
1047 Community Health to adopt and administer a state plan for medical assistance;
- 1048 (70) Code Section 49-4-146, relating to time for action on Medicaid claim;
- 1049 (71) Code Section 49-4-146.3, relating to forfeiture of property and proceeds obtained  
1050 through Medicaid fraud;
- 1051 (72) Code Section 49-4-147, relating to enforcement of liens, claims, or offsets against  
1052 assistance;
- 1053 (73) Code Section 49-4-147.2, relating to noneligibility of Department of Community  
1054 Health to obtain nor be liable for interest on orders, judgments, and liquidated or  
1055 unliquidated amounts;
- 1056 (74) Code Section 49-4-148, relating to recovery of assistance from third party liable for  
1057 sickness, injury, disease, or disability;
- 1058 (75) Code Section 49-4-149, relating to lien of Department of Community Health against  
1059 third parties;
- 1060 (76) Code Section 49-4-149.1, relating to submission by the Department of Community  
1061 Health of plan for family supplementation of Medicaid payments upon federal removal  
1062 of restrictions;

- 1063 (77) Code Section 49-4-150, relating to regulations as to maintenance and use of records;  
 1064 (78) Code Section 49-4-151, relating to obtaining information for investigations and  
 1065 audits;  
 1066 (79) Code Section 49-4-152, relating to research and demonstration projects under  
 1067 Medicaid;  
 1068 (80) Code Section 49-4-153, relating to administrative hearings and appeals under  
 1069 Medicaid;  
 1070 (81) Code Section 49-4-156.1, relating to reimbursement of services rendered under  
 1071 Article 5 of Chapter 6 of Title 49, relating to community care for the elderly;  
 1072 (82) Code Section 49-4-157, relating to construction of Article 7 of Chapter 4 of Title  
 1073 49 with the federal Social Security Act;  
 1074 (83) Code Section 49-4-161, relating to definitions relative to the "Georgia Long-term  
 1075 Care Partnership Program Act";  
 1076 (84) Code Section 49-4-162, relating to the establishment of the Georgia Qualified  
 1077 Long-term Care Partnership Program;  
 1078 (85) Code Section 49-4-169.1, relating to definitions relative to therapy services for  
 1079 children with disabilities;  
 1080 (86) Code Section 49-5-12, relating to licensing and inspection of child welfare agencies;  
 1081 (87) Code Section 49-5-272, relating to definitions relative to the PeachCare for Kids  
 1082 Program;  
 1083 (88) Code Section 49-10-1, relating to the Georgia Board for Physician Workforce;  
 1084 (89) Code Section 50-13-9.1, relating to variances or waivers to agency rules;  
 1085 (90) Code Section 50-26-19, relating to financing acquisition, construction, and  
 1086 equipping of health care facilities;  
 1087 (91) Code Section 51-2-5.1, relating to the relationship between hospital and health care  
 1088 provider prerequisite to liability; and  
 1089 (92) Code Section 52-7-14, relating to collisions, accidents, and casualties relative to  
 1090 watercraft.

#### 1091 **SECTION 1-5.**

1092 The following Code sections of the Official Code of Georgia Annotated are amended by  
 1093 replacing "Board of Community Health" wherever it occurs with "State Board of Health":

- 1094 (1) Code Section 20-2-880, relating to definitions relative to health insurance plans for  
 1095 public school teachers;  
 1096 (2) Code Section 20-2-910, relating to definitions relative to health insurance plans for  
 1097 public school employees;

- 1098 (3) Code Section 31-6-2, relating to definitions relative to state health planning and  
 1099 development;
- 1100 (4) Code Section 31-6-21, relating to the Department of Community Health generally  
 1101 relative to state health planning and development;
- 1102 (5) Code Section 31-7-1, relating to definitions relative to regulation of hospitals and  
 1103 related institutions;
- 1104 (6) Code Section 31-8-155, relating to promulgation of rules and regulations for funding  
 1105 expansions of eligibility and indigent care programs;
- 1106 (7) Code Section 45-18-1, relating to definitions relative to the state employees' health  
 1107 insurance plan;
- 1108 (8) Code Section 45-18-12, relating to the creation of a health insurance fund for the  
 1109 state employees' health insurance plan;
- 1110 (9) Code Section 45-18-100, relating to definitions relative to the Georgia Retiree Health  
 1111 Benefit Fund;
- 1112 (10) Code Section 49-4-141, relating to definitions relative to Medicaid;
- 1113 (11) Code Section 49-4-143, relating to the power of the Board of Community Health  
 1114 with respect to Medicaid;
- 1115 (12) Code Section 49-4-150, relating to regulations as to maintenance and use of records;
- 1116 (13) Code Section 49-4-153, relating to administrative hearings and appeals under  
 1117 Medicaid; and
- 1118 (14) Code Section 49-5-272, relating to definitions relative to the PeachCare for Kids  
 1119 Program.

#### 1120 **SECTION 1-6.**

1121 The following Code sections of the Official Code of Georgia Annotated are amended by  
 1122 replacing "commissioner of community health" wherever it occurs with "commissioner of  
 1123 health":

- 1124 (1) Code Section 20-2-880, relating to definitions relative to health insurance plans for  
 1125 public school teachers;
- 1126 (2) Code Section 20-2-896, relating to the administrative discharge of certain debts due  
 1127 the health insurance fund for public school teachers;
- 1128 (3) Code Section 20-2-910, relating to definitions relative to health insurance plans for  
 1129 public school employees;
- 1130 (4) Code Section 20-2-924, relating to the administrative discharge of certain debts due  
 1131 the health insurance fund for public school employees;
- 1132 (5) Code Section 30-1-5, relating to the definition of a "hearing impaired person";



- 1133 (6) Code Section 31-7-1, relating to definitions relative to regulation of hospitals and  
1134 related institutions;
- 1135 (7) Code Section 31-21-5, relating to incineration or cremation of dead body or parts  
1136 thereof;
- 1137 (8) Code Section 33-21A-3, relating to certificates of authority for care management  
1138 organizations;
- 1139 (9) Code Section 43-34-24.1, relating to the Composite State Board of Medical  
1140 Examiners as an independent agency;
- 1141 (10) Code Section 45-18-1, relating to definitions relative to the state employees' health  
1142 insurance plan;
- 1143 (11) Code Section 45-18-12, relating to the creation of a health insurance fund for the  
1144 state employees' health insurance plan;
- 1145 (12) Code Section 45-18-13, relating to deposit of amounts from health insurance fund  
1146 available for investment in trust account;
- 1147 (13) Code Section 45-18-15, relating to rules and regulations relative to the state  
1148 employees' health insurance plan;
- 1149 (14) Code Section 45-18-16, relating to certification to departments and other entities of  
1150 the state of employer payment percentage for the ensuing fiscal year;
- 1151 (15) Code Section 45-18-18, relating to the discharge of certain debts or obligations due  
1152 the health insurance fund for employees of the state;
- 1153 (16) Code Section 45-18-100, relating to definitions relative to the Georgia Retiree  
1154 Health Benefit Fund;
- 1155 (17) Code Section 49-4-144, relating to the chief administrative officer of the  
1156 Department of Community Health;
- 1157 (18) Code Section 49-4-147, relating to enforcement of liens, claims, or offsets against  
1158 assistance under Medicaid;
- 1159 (19) Code Section 49-4-148, relating to recovery of assistance from third party liable for  
1160 sickness, injury, disease, or disability under Medicaid;
- 1161 (20) Code Section 49-4-150, relating to regulations as to maintenance and use of records  
1162 relating to Medicaid;
- 1163 (21) Code Section 49-4-153, relating to administrative hearings and appeals under  
1164 Medicaid; and
- 1165 (22) Code Section 50-5-69, relating to purchases without competitive bidding by state  
1166 agencies.

**SECTION 1-7.**

1167

1168 The following Code sections of the Official Code of Georgia Annotated are amended by  
1169 replacing "Department of Human Resources" wherever it occurs with "Department of  
1170 Health":

1171 (1) Code Section 4-4-69, relating to regulation of manufacture and use of disease vectors  
1172 in livestock;

1173 (2) Code Section 4-10-10, relating to the joint regulation of the sale or transportation of  
1174 exotic or pet birds;

1175 (3) Code Section 10-1-393, relating to unfair or deceptive practices in consumer  
1176 transactions which are deemed unlawful;

1177 (4) Code Section 12-2-8, relating to promulgation of minimum standards and procedures  
1178 for protection of natural resources, environment, and vital areas of the state;

1179 (5) Code Section 12-3-9, relating to adoption and promulgation by the Board of Natural  
1180 Resources of rules and regulations regarding parks, historic sites, and recreational areas;

1181 (6) Code Section 12-5-175, relating to fluoridation of public water systems;

1182 (7) Code Section 12-8-1, relating to notice of denial of individual sewage disposal  
1183 permits;

1184 (8) Code Section 15-21-142, relating to the establishment of the Brain and Spinal Injury  
1185 Trust Fund Commission;

1186 (9) Code Section 16-6-13.1, relating to testing for sexually transmitted diseases;

1187 (10) Code Section 16-12-141, relating to when abortion is legal;

1188 (11) Code Section 17-10-15, relating to AIDS transmitting crimes;

1189 (12) Code Section 19-3-41, relating to preparation by the Department of Human  
1190 Resources of a marriage manual on family planning and other material;

1191 (13) Code Section 20-2-142, relating to prescribed courses in elementary and secondary  
1192 schools on alcohol, tobacco, and drug use;

1193 (14) Code Section 20-2-143, relating to sex education and AIDS prevention instruction  
1194 in elementary and secondary schools;

1195 (15) Code Section 20-2-144, relating to mandatory instruction in elementary and  
1196 secondary schools concerning alcohol and drug use;

1197 (16) Code Section 20-2-770, relating to rules and regulations for nutritional screening  
1198 and eye, ear, and dental examinations of students;

1199 (17) Code Section 20-2-771, relating to immunization of students in elementary and  
1200 secondary education;

1201 (18) Code Section 20-2-772, relating to rules and regulations for screening of students  
1202 for scoliosis;

- 1203 (19) Code Section 24-9-40, relating to when medical information may be released by a  
1204 physician, hospital, health care facility, or pharmacist;
- 1205 (20) Code Section 24-9-47, relating to disclosure of AIDS confidential information;
- 1206 (21) Code Section 25-3-6, relating to the effect of certain laws relating to local fire  
1207 departments on the powers and duties of other officials and departments;
- 1208 (22) Code Section 26-2-371, relating to permits required for food service establishments;
- 1209 (23) Code Section 26-2-372, relating to the issuance of permits for food service  
1210 establishments;
- 1211 (24) Code Section 26-2-373, relating to promulgation of rules, regulations, and standards  
1212 by the Department of Human Resources and county boards of health for food service  
1213 establishments;
- 1214 (25) Code Section 26-2-374, relating to contents and posting of notices relating to  
1215 assistance to persons choking;
- 1216 (26) Code Section 26-2-375, relating to enforcement of laws regarding the regulation of  
1217 food service establishments;
- 1218 (27) Code Section 26-2-376, relating to review of final order or determination by  
1219 Department of Human Resources regarding regulation of a food service establishment;
- 1220 (28) Code Section 26-2-377, relating to penalties for violation of laws regarding the  
1221 regulation of food service establishments;
- 1222 (29) Code Section 26-3-18, relating to assistance in enforcement from Department of  
1223 Agriculture or Department of Human Resources with respect to standards, labeling, and  
1224 adulteration of drugs and cosmetics;
- 1225 (30) Code Section 26-4-85, relating to patient counseling by a pharmacist;
- 1226 (31) Code Section 26-4-116, relating to emergency service providers with respect to  
1227 dangerous drugs and controlled substances;
- 1228 (32) Code Section 26-4-172, relating to license requirements under the "Nuclear  
1229 Pharmacy Law";
- 1230 (33) Code Section 26-5-3, relating to definitions relative to the "Drug Abuse Treatment  
1231 and Education Act";
- 1232 (34) Code Section 31-1-3.2, relating to hearing screenings for newborns;
- 1233 (35) Code Section 31-3-4, relating to powers of county boards of health;
- 1234 (36) Code Section 31-3-11, relating to appointments of director and staff of county board  
1235 of health;
- 1236 (37) Code Section 31-5-1, relating to adoption of rules and regulations by the  
1237 Department of Human Resources and county boards of health;
- 1238 (38) Code Section 31-5-9, relating to injunctions for enjoining violations of the  
1239 provisions of Title 31;

- 1240 (39) Code Section 31-5-20, relating to the definition of the term "inspection warrant"  
 1241 with respect to enforcement of certain public health laws;
- 1242 (40) Code Section 31-5-21, relating to persons who may obtain inspection warrants;
- 1243 (41) Code Section 31-7-133, relating to confidentiality of review organization's records;
- 1244 (42) Code Section 31-7-172, relating to definitions relative to hospice care;
- 1245 (43) Code Section 31-7-175, relating to the administration of the article of the "Georgia  
 1246 Hospice Law";
- 1247 (44) Code Section 31-8-1, relating to the establishment and purpose of the Hospital Care  
 1248 for the Indigent Program;
- 1249 (45) Code Section 31-8-36, relating to state appropriations to the Nonresident Indigent  
 1250 Health Care Fund;
- 1251 (46) Code Section 31-8-46, relating to investigation of violations by a hospital;
- 1252 (47) Code Section 31-8-193, relating to the establishment of a program to provide health  
 1253 care services to low-income recipients;
- 1254 (48) Code Section 31-9A-4, relating to information to be made available by the  
 1255 Department of Human Resources under the "Woman's Right to Know Act";
- 1256 (49) Code Section 31-9A-6, relating to reporting requirements under the "Woman's Right  
 1257 to Know Act";
- 1258 (50) Code Section 31-10-1, relating to definitions relative to vital records;
- 1259 (51) Code Section 31-11-1, relating to findings of the General Assembly and declaration  
 1260 of policy with respect to emergency medical services;
- 1261 (52) Code Section 31-11-3, relating to recommendations by local coordinating entity as  
 1262 to administration of the Emergency Medical Systems Communication Program;
- 1263 (53) Code Section 31-11-81, relating to definitions relative to emergency services;
- 1264 (54) Code Section 31-11-100, relating to definitions relative to the Georgia Trauma Care  
 1265 Network Commission;
- 1266 (55) Code Section 31-11-101, relating to the creation of the Georgia Trauma Care  
 1267 Network Commission;
- 1268 (56) Code Section 31-11-102, relating to the duties and responsibilities of the Georgia  
 1269 Trauma Care Network Commission;
- 1270 (57) Code Section 31-11-110, relating to legislative findings relative to a system of  
 1271 certified stroke centers;
- 1272 (58) Code Section 31-12-1, relating to the power to conduct research and studies relative  
 1273 to the control of hazardous conditions, preventable diseases, and metabolic diseases;
- 1274 (59) Code Section 31-12A-9, relating to a continuing education program relative to the  
 1275 "Georgia Smokefree Air Act of 2005";

- 1276 (60) Code Section 31-12A-10, relating to enforcement by the Department of Human  
1277 Resources and county boards of health of the "Georgia Smokefree Air Act of 2005";
- 1278 (61) Code Section 31-13-3, relating to definitions relative to the "Georgia Radiation  
1279 Control Act";
- 1280 (62) Code Section 31-13-4, relating to administration of state-wide radiation control  
1281 program for radiation generating equipment;
- 1282 (63) Code Section 31-13-5, relating to the powers and duties of the Department of  
1283 Human Resources and the Department of Natural Resources under the "Georgia  
1284 Radiation Control Act";
- 1285 (64) Code Section 31-13-8.2, relating to licensing of diagnostic and therapeutic medical  
1286 uses of radioactive materials;
- 1287 (65) Code Section 31-13-9, relating to records of use of radiation sources and exposure  
1288 of employees to radiation;
- 1289 (66) Code Section 31-13-10, relating to suspension, revocation, and amendment of  
1290 license or registration of radiation generating equipment;
- 1291 (67) Code Section 31-13-11, relating to impounding and condemnation of radiation  
1292 generating equipment and radioactive materials;
- 1293 (68) Code Section 31-13-12, relating to the license requirements under the "Georgia  
1294 Radiation Control Act";
- 1295 (69) Code Section 31-13-13, relating to penalties under the "Georgia Radiation Control  
1296 Act";
- 1297 (70) Code Section 31-13-23, relating to transfer of powers and duties between the  
1298 Department of Natural Resources and the Department of Human Resources under the  
1299 "Georgia Radiation Control Act";
- 1300 (71) Code Section 31-14-2, relating to petition for commitment of a person who has  
1301 active tuberculosis;
- 1302 (72) Code Section 31-14-9, relating to procedure for securing discharge of a person  
1303 committed for active tuberculosis;
- 1304 (73) Code Section 31-15-2, relating to the establishment of a program for the prevention,  
1305 control, and treatment of cancer;
- 1306 (74) Code Section 31-16-2, relating to the establishment of a program for the prevention,  
1307 control, and treatment of kidney disease;
- 1308 (75) Code Section 31-17-2, relating to the report of diagnosis or treatment to health  
1309 authorities of a case of venereal disease;
- 1310 (76) Code Section 31-17-3, relating to examination and treatment by health authorities  
1311 for venereal disease;
- 1312 (77) Code Section 31-17-4.2, relating to HIV pregnancy screening;

- 1313 (78) Code Section 31-17A-2, relating to examination of persons infected or suspected  
1314 of being infected with HIV;
- 1315 (79) Code Section 31-17A-3, relating to refusal to consent to an HIV test;
- 1316 (80) Code Section 31-18-4, relating to the duties of the Brain and Spinal Injury Trust  
1317 Fund Commission;
- 1318 (81) Code Section 31-21-25, relating to bonds required prior to receiving unclaimed  
1319 bodies;
- 1320 (82) Code Section 31-22-2, relating to licenses to operate clinical laboratories;
- 1321 (83) Code Section 31-22-9.1, relating to who may perform HIV tests;
- 1322 (84) Code Section 31-22-9.2, relating to report of positive HIV tests;
- 1323 (85) Code Section 31-23-3, relating to hospitals or medical schools which may operate  
1324 eye banks;
- 1325 (86) Code Section 31-24-4, relating to labeling of containers of blood under "The Blood  
1326 Labeling Act";
- 1327 (87) Code Section 31-26-2, relating to the requirement of a certificate to practice  
1328 midwifery;
- 1329 (88) Code Section 31-27-2, relating to the requirement of a permit for a mass gathering;
- 1330 (89) Code Section 31-28-2, relating to issuance of permits to operate a tourist court;
- 1331 (90) Code Section 31-28-5, relating to standards for health, sanitation, and safety of  
1332 tourist courts;
- 1333 (91) Code Section 31-28-6, relating to inspection of premises of tourist courts;
- 1334 (92) Code Section 31-30-9, relating to effectiveness of chapter on reports on veterans  
1335 exposed to agent orange;
- 1336 (93) Code Section 31-34-5, relating to service cancelable loans under the "Physicians for  
1337 Rural Areas Assistance Act";
- 1338 (94) Code Section 31-35-10, relating to definitions relative to bioterrorism protection for  
1339 emergency providers;
- 1340 (95) Code Section 31-40-2, relating to issuance of permits for tattoo studios;
- 1341 (96) Code Section 31-40-5, relating to rules and regulations relative to tattoo studios;
- 1342 (97) Code Section 31-40-6, relating to enforcement of chapter regulating tattoo studios;
- 1343 (98) Code Section 31-40-8, relating to a public education program relative to tattoo  
1344 studios;
- 1345 (99) Code Section 31-45-8, relating to inspections by the county board of health of  
1346 public swimming pools;
- 1347 (100) Code Section 31-45-9, relating to suspension or revocation of permit for a public  
1348 swimming pool;

- 1349 (101) Code Section 31-45-10, relating to rules and regulations relative to public  
1350 swimming pools;
- 1351 (102) Code Section 31-45-11, relating to enforcement of rules and regulations relative  
1352 to public swimming pools;
- 1353 (103) Code Section 31-46-4, relating to the Georgia Commission for Saving the Cure;
- 1354 (104) Code Section 33-24-59.7, relating to insurance coverage for the treatment of  
1355 morbidly obese patients;
- 1356 (105) Code Section 33-29-3.2, relating to individual accident and sickness insurance  
1357 coverage for mammograms, Pap smears, and prostate specific antigen tests;
- 1358 (106) Code Section 33-30-4.2, relating to group accident and sickness insurance  
1359 coverage for mammograms, Pap smears, and prostate specific antigen tests;
- 1360 (107) Code Section 33-44-3, relating to the creation of the Georgia High Risk Health  
1361 Insurance Plan;
- 1362 (108) Code Section 34-9-1, relating to definitions relative to workers' compensation;
- 1363 (109) Code Section 34-9-415, relating to testing under drug-free workplace programs;
- 1364 (110) Code Section 35-1-8, relating to acquisition, collection, classification, and  
1365 preservation of information assisting in identifying deceased persons and locating missing  
1366 persons;
- 1367 (111) Code Section 36-62-2, relating to definitions relative to the "Development  
1368 Authorities Law";
- 1369 (112) Code Section 38-3-22, relating to the Governor's emergency management powers  
1370 and duties;
- 1371 (113) Code Section 38-3-51, relating to emergency powers of the Governor;
- 1372 (114) Code Section 40-5-25, relating to applications for instruction permits and drivers'  
1373 licenses;
- 1374 (115) Code Section 40-6-392, relating to chemical tests for alcohol or drugs in blood  
1375 relating to violations of driving under the influence of alcohol, drugs, or other  
1376 intoxicating substances;
- 1377 (116) Code Section 42-1-7, relating to notification to transporting law enforcement  
1378 agency of inmate's or patient's infectious or communicable disease;
- 1379 (117) Code Section 42-4-6, relating to confinement and care of tubercular inmates;
- 1380 (118) Code Section 42-4-32, relating to sanitation and health requirements for jails;
- 1381 (119) Code Section 43-10-6, relating to rules and regulations as to sanitary requirements  
1382 of beauty shops, beauty salons, schools of cosmetology, schools of esthetics, schools of  
1383 hair design, and schools of nail care;
- 1384 (120) Code Section 43-11-74, relating to direct supervision requirement of dental  
1385 hygienists by a licensed dentist;

- 1386 (121) Code Section 43-14-2, relating to definitions relative to the regulation of electrical  
 1387 contractors, plumbers, conditioned air contractors, low-voltage contractors, and utility  
 1388 contractors;
- 1389 (122) Code Section 43-18-1, relating to definitions relative to the regulation of funeral  
 1390 directors and establishments, embalmers, and crematories;
- 1391 (123) Code Section 43-18-46, relating to grounds for denial or revocation of license or  
 1392 registration to operate a funeral establishment or to practice embalming or funeral  
 1393 directing;
- 1394 (124) Code Section 43-27-1, relating to definitions relative to nursing home  
 1395 administrators;
- 1396 (125) Code Section 43-34-26.1, relating to delegation of authority to nurse or physician's  
 1397 assistant;
- 1398 (126) Code Section 43-34-26.3, relating to delegation of certain medical acts to advanced  
 1399 practice registered nurse;
- 1400 (127) Code Section 43-34-103, relating to applications for utilization of physician's  
 1401 assistants;
- 1402 (128) Code Section 45-18-1, relating to definitions relative to the state employees' health  
 1403 insurance plan;
- 1404 (129) Code Section 45-18-32, relating to administration of deferred compensation plans  
 1405 for employees of the state;
- 1406 (130) Code Section 46-11-4, relating to regulation of transportation of hazardous  
 1407 materials on public roads of the state generally;
- 1408 (131) Code Section 49-4-152.3, relating to reuse of unit dosage drugs under Medicaid;
- 1409 (132) Code Section 50-13-4, relating to procedural requirements for adoption,  
 1410 amendment, or repeal of rules by a state agency;
- 1411 (133) Code Section 50-18-72, relating to when public disclosure is not required under  
 1412 open records laws;
- 1413 (134) Code Section 50-18-76, relating to written matter exempt from disclosure under  
 1414 vital records laws; and
- 1415 (135) Code Section 50-26-4, relating to definitions relative to the "Georgia Housing and  
 1416 Finance Authority Act."

#### 1417 **SECTION 1-8.**

- 1418 The following Code sections of the Official Code of Georgia Annotated are amended by  
 1419 replacing "Board of Human Resources" wherever it occurs with "State Board of Health":
- 1420 (1) Code Section 31-1-3.2, relating to hearing screenings for newborns;
- 1421 (2) Code Section 31-7-304, relating to fees on private home care providers;



- 1422 (3) Code Section 31-11-2, relating to definitions relative to emergency medical services;  
 1423 (4) Code Section 31-11-3, relating to recommendations by local coordinating entity as  
 1424 to administration of the Emergency Medical Systems Communication Program;  
 1425 (5) Code Section 31-11-31.1, relating to license fees on ambulance services;  
 1426 (6) Code Section 31-12-14, relating to breast cancer, prostate cancer, and ovarian cancer  
 1427 research program fund;  
 1428 (7) Code Section 31-22-1, relating to definitions relative to clinical laboratories;  
 1429 (8) Code Section 42-9-12, relating to appointment of replacement for incapacitated  
 1430 member on the State Board of Pardons and Paroles; and  
 1431 (9) Code Section 43-7-9, relating to general powers and duties of the State Board of  
 1432 Barbers.

1433 **SECTION 1-9.**

1434 The following Code sections of the Official Code of Georgia Annotated are amended by  
 1435 replacing "commissioner of human resources" wherever it occurs with "commissioner of  
 1436 health":

- 1437 (1) Code Section 8-2-24, relating to appointment of advisory committee relating to state  
 1438 building, plumbing, and electrical codes;  
 1439 (2) Code Section 12-5-524, relating to the creation of the Water Council;  
 1440 (3) Code Section 16-12-141, relating to when abortion is legal;  
 1441 (4) Code Section 16-12-141.1, relating to disposal of aborted fetuses;  
 1442 (5) Code Section 21-2-231, relating to lists of persons convicted of felonies, persons  
 1443 declared mentally incompetent, and deceased persons provided to Secretary of State with  
 1444 respect to registration of voters;  
 1445 (6) Code Section 26-2-393, relating to enforcement of article relating to nonprofit food  
 1446 sales and food service;  
 1447 (7) Code Section 31-7-176.1, relating to determination or pronouncement of death of a  
 1448 patient in hospice care;  
 1449 (8) Code Section 31-8-32, relating to determination of indigency for hospital care for  
 1450 nonresidents;  
 1451 (9) Code Section 31-8-43, relating to determination of indigency for hospital care for  
 1452 pregnant women;  
 1453 (10) Code Section 31-9A-2, relating to definitions relative to the "Woman's Right to  
 1454 Know Act";  
 1455 (11) Code Section 31-10-1, relating to definitions relative to vital records;  
 1456 (12) Code Section 31-11-2, relating to definitions relative to emergency medical  
 1457 services;

- 1458 (13) Code Section 31-11-36, relating to suspension or revocation of licenses for  
1459 ambulance services;
- 1460 (14) Code Section 31-16-3, relating to functions of the Kidney Disease Advisory  
1461 Committee;
- 1462 (15) Code Section 31-27-7, relating to emergency powers of the Governor regarding  
1463 mass gatherings;
- 1464 (16) Code Section 31-35-10, relating to definitions relative to bioterrorism protection for  
1465 emergency responders;
- 1466 (17) Code Section 31-36A-7, relating to petition for health care placement transfer,  
1467 admission, or discharge order by health care facility;
- 1468 (18) Code Section 33-20B-3.1, relating to health maintenance organizations' expansion  
1469 into rural areas;
- 1470 (19) Code Section 33-21-3, relating to grounds and procedure for issuance or denial of  
1471 certificate of authority for a health maintenance organization;
- 1472 (20) Code Section 33-21-5, relating to suspension or revocation of certificate of authority  
1473 for a health maintenance organization;
- 1474 (21) Code Section 33-21-15, relating to filing of annual reports by health maintenance  
1475 organizations;
- 1476 (22) Code Section 33-21-17, relating to examinations of health maintenance  
1477 organizations and providers;
- 1478 (23) Code Section 33-21-18, relating to adoption of rules and regulations generally  
1479 relative to health maintenance organizations;
- 1480 (24) Code Section 33-21-20, relating to conduct of hearings generally relative to health  
1481 maintenance organizations;
- 1482 (25) Code Section 33-21-21, relating to authority of commissioner of human resources  
1483 to contract for making of recommendations required by health maintenance organizations  
1484 laws;
- 1485 (26) Code Section 33-21-27, relating to enforcement of health maintenance organizations  
1486 laws;
- 1487 (27) Code Section 38-2-10, relating to use of National Guard in drug law enforcement,  
1488 provision of medical care in medically underserved areas, and for youth opportunity  
1489 training programs;
- 1490 (28) Code Section 42-4-32, relating to sanitation and health requirements in jails  
1491 generally;
- 1492 (29) Code Section 42-9-12, relating to appointment of replacement for incapacitated  
1493 member on the State Board of Pardons and Paroles;
- 1494 (30) Code Section 43-1A-4, relating to the Occupational Regulation Review Council;

- 1495 (31) Code Section 43-27-2, relating to creation of the State Board of Nursing Home  
 1496 Administrators;
- 1497 (32) Code Section 43-45-3, relating to creation of the State Structural Pest Control  
 1498 Commission;
- 1499 (33) Code Section 45-9-73, relating to the creation of the Georgia Public School  
 1500 Personnel Indemnification Commission; and
- 1501 (34) Code Section 45-9-83, relating to the creation of the Georgia State Indemnification  
 1502 Commission.

#### 1503 **SECTION 1-10.**

1504 The following Code sections of the Official Code of Georgia Annotated are amended by  
 1505 replacing "Chapter 5A of Title 31" wherever it occurs with "Chapter 2 of Title 31":

- 1506 (1) Code Section 20-2-880, relating to definitions relative to health insurance plans for  
 1507 public school teachers;
- 1508 (2) Code Section 20-2-910, relating to definitions relative to health insurance plans for  
 1509 public school employees;
- 1510 (3) Code Section 33-20A-31, relating to definitions relative to the "Patient's Right to  
 1511 Independent Review Act";
- 1512 (4) Code Section 45-18-1, relating to definitions relative to the state employees' health  
 1513 insurance plan;
- 1514 (5) Code Section 49-4-141, relating to definitions relative to Medicaid;
- 1515 (6) Code Section 49-4-142, relating to the authorization of the Department of  
 1516 Community Health to adopt and administer a state plan for medical assistance;
- 1517 (7) Code Section 49-4-143, relating to the power of the Board of Community Health with  
 1518 respect to Medicaid; and
- 1519 (8) Code Section 49-4-144, relating to the chief administrative officer of the Department  
 1520 of Community Health.

#### 1521 **SECTION 1-11.**

1522 The following Code sections of the Official Code of Georgia Annotated are amended by  
 1523 replacing "Chapter 5A of this title" wherever it occurs with "Chapter 2 of this title":

- 1524 (1) Code Section 31-6-2, relating to definitions relative to state health planning and  
 1525 development;
- 1526 (2) Code Section 31-6-21, relating to the Department of Community Health generally  
 1527 under state health planning and development;
- 1528 (3) Code Section 31-7-94.1, relating to the "Rural Hospital Assistance Act;"
- 1529 (4) Code Section 31-8-151, relating to definitions relative to the indigent care trust fund;

- 1530 (5) Code Section 31-8-162, relating to definitions relative to nursing home provider fees;  
 1531 and  
 1532 (6) Code Section 31-8-171, relating to definitions relative to quality assessment fees on  
 1533 care management organizations.

1534 **SECTION 1-12.**

1535 The following Code sections of the Official Code of Georgia Annotated are amended by  
 1536 replacing "Code Section 31-2-6" wherever it occurs with "Code Section 31-2-11":

- 1537 (1) Code Section 25-2-40, relating to smoke detectors required in new dwellings and  
 1538 dwelling units;  
 1539 (2) Code Section 31-7-2.1, relating to rules and regulations relative to regulation of  
 1540 hospitals and related institutions;  
 1541 (3) Code Section 31-7-302, relating to rules and regulations relative to private home care  
 1542 providers;  
 1543 (4) Code Section 31-8-60, relating to retaliation against a resident of a long-term care  
 1544 facility and prohibition against interference with the ombudsman;  
 1545 (5) Code Section 31-8-135, relating to hearings under the "Remedies for Residents of  
 1546 Personal Care Homes Act";  
 1547 (6) Code Section 31-11-9, relating to enforcement of emergency medical services laws;  
 1548 and  
 1549 (7) Code Section 31-44-11, relating to the authority of the Department of Human  
 1550 Resources to deal with violations of renal disease facilities laws.

1551 **SECTION 1-13.**

1552 The following Code sections of the Official Code of Georgia Annotated are amended by  
 1553 replacing "Code Section 31-2-7" wherever it occurs with "Code Section 31-2-12":

- 1554 (1) Code Section 31-3-5, relating to functions of county boards of health;  
 1555 (2) Code Section 31-3-5.1, relating to conformity prerequisite to building permit; and  
 1556 (3) Code Section 50-13-4, relating to procedural requirements for adoption, amendment,  
 1557 or repeal of rules.

1558 **SECTION 1-14.**

1559 Code Section 10-1-393 of the Official Code of Georgia Annotated, relating to unfair or  
 1560 deceptive practices in consumer transactions which are deemed unlawful, is amended by  
 1561 revising paragraph (26) of subsection (b) as follows:

- 1562 "(26) With respect to any individual or facility providing personal care services:

1563 (A) Any person or entity not duly licensed or registered as a personal care home  
 1564 formally or informally offering, advertising to, or soliciting the public for residents or  
 1565 referrals;

1566 (B) Any personal care home, as defined in subsection (a) of Code Section 31-7-12,  
 1567 offering, advertising, or soliciting the public to provide services:

1568 (i) Which are outside the scope of personal care services; and

1569 (ii) For which it has not been specifically authorized.

1570 Nothing in this subparagraph prohibits advertising by a personal care home for services  
 1571 authorized by the Department of ~~Human Resources~~ Health under a waiver or variance  
 1572 pursuant to subsection (b) of Code Section ~~31-2-4~~ 31-2-9;

1573 (C) For purposes of this paragraph, 'personal care' means protective care and watchful  
 1574 oversight of a resident who needs a watchful environment but who does not have an  
 1575 illness, injury, or disability which requires chronic or convalescent care including  
 1576 medical and nursing services.

1577 The provisions of this paragraph shall be enforced following consultation with the  
 1578 Department of ~~Human Resources~~ Health which shall retain primary responsibility for  
 1579 issues relating to licensure of any individual or facility providing personal care services;"

#### 1580 **SECTION 1-15.**

1581 Code Section 12-8-41 of the Official Code of Georgia Annotated, relating to permits issued  
 1582 by the Department of Natural Resources for land disposal sites, is amended as follows:

1583 "12-8-41.

1584 The department shall provide by rule or regulation for the regulation and permitting of any  
 1585 land disposal site that receives septic tank waste from any one or more septic tank pumping  
 1586 and hauling businesses. Any new permit issued for such type of site on or after July 1,  
 1587 2007, shall be issued by the department under this Code section. Any such type of site that  
 1588 as of June 30, 2007, operated under a valid permit issued on or before such date by the  
 1589 Department of Human Resources (now known as the Department of Health for these  
 1590 purposes) under Code Section ~~31-2-8~~ 31-2-13 may continue to operate under such Code  
 1591 section until July 1, 2012, but a permit shall be obtained from the department under this  
 1592 Code section prior to such date in order to continue such operation thereafter."

#### 1593 **SECTION 1-16.**

1594 Code Section 15-11-66.1 of the Official Code of Georgia Annotated, relating to disposition  
 1595 of a child committing delinquent act constituting AIDS transmitting crime, is amended by  
 1596 revising subsection (e) as follows:

1597 "(e) If a child is required by this Code section to submit to an HIV test and is thereby  
 1598 determined to be infected with HIV, that determination and the name of the child shall be  
 1599 deemed to be AIDS confidential information and shall be reported to:

1600 (1) The Department of Juvenile Justice or the Department of Corrections, as the case  
 1601 may be, and the Department of ~~Human Resources~~ Health, the latter of which may  
 1602 disclose the name of the child if necessary to provide and shall provide counseling to  
 1603 each victim of that child's AIDS transmitting crime or to any parent or guardian of any  
 1604 victim who is a minor or incompetent person, if the Department of Juvenile Justice or the  
 1605 Department of Corrections believes the crime posed a reasonable risk of transmitting HIV  
 1606 to the victim;

1607 (2) The court which ordered the HIV test; and

1608 (3) Those persons in charge of any facility to which the child has been confined by order  
 1609 of the court. In addition to any other restrictions regarding the confinement of children,  
 1610 a child determined to be an HIV infected person may be confined in that facility  
 1611 separately from any other children in that facility other than those who have been  
 1612 determined to be infected with HIV if:

1613 (A) That child is reasonably believed to be sexually active while confined;

1614 (B) That child is reasonably believed to be sexually predatory either during or prior to  
 1615 detention; or

1616 (C) The commissioner of juvenile justice or the commissioner of corrections, as the  
 1617 case may be, reasonably determines that other circumstances or conditions exist which  
 1618 indicate that separate confinement would be warranted."

1619 **SECTION 1-17.**

1620 Code Section 15-21-143 of the Official Code of Georgia Annotated, relating to appointment  
 1621 of members and personnel of the Brain and Spinal Injury Trust Fund Commission, is  
 1622 amended as follows:

1623 "15-21-143.

1624 (a) The Brain and Spinal Injury Trust Fund Commission shall consist of 15 members who  
 1625 shall serve for terms of two years, except that with respect to the first members appointed,  
 1626 five members shall be appointed for a term of three years, five for a term of two years, and  
 1627 five for a term of one year. The following agencies may each appoint one member of the  
 1628 commission:

1629 (1) The Division of Rehabilitation Services of the Department of Labor;

1630 (2) The State Board of Education;

1631 (3) The Department of Public Safety;

1632 (4) The Department of ~~Community~~ Health; and

1633 (5) The Department of Human ~~Resources~~ Services.  
 1634 The remaining ten members of the commission shall be appointed by the Governor, seven  
 1635 of whom shall be citizens who have sustained brain or spinal cord injury or members of  
 1636 such persons' immediate families, no more than one of whom shall reside in the same  
 1637 geographic area of the state which constitutes a health district established by the  
 1638 Department of ~~Human Resources~~ Health. The Governor is authorized but not required to  
 1639 appoint the remaining three members from recommendations submitted by the Private  
 1640 Rehabilitation Suppliers of Georgia, the Georgia Hospital Association, the Brain Injury  
 1641 Association of Georgia, the Medical Association of Georgia, and the Georgia State Medical  
 1642 Association. The Governor shall also establish initial terms of office for all 15 members  
 1643 of the board within the limitations of this subsection.

1644 (b) In the event of death, resignation, disqualification, or removal for any reason of any  
 1645 member of the commission, the vacancy shall be filled in the same manner as the original  
 1646 appointment and the successor shall serve for the unexpired term.

1647 (c) Membership on the commission does not constitute public office, and no member shall  
 1648 be disqualified from holding public office by reason of his or her membership.

1649 (d) The Governor shall designate a chairperson of the commission from among the  
 1650 members, which chairperson shall serve in that position at the pleasure of the Governor.  
 1651 The commission may elect such other officers and committees as it considers appropriate.

1652 (e) The commission, with the approval of the Governor, may employ such professional,  
 1653 technical, or clerical personnel as deemed necessary to carry out the purposes of this  
 1654 chapter."

#### 1655 SECTION 1-18.

1656 Code Section 17-18-1 of the Official Code of Georgia Annotated, relating to duty of certain  
 1657 officials to offer written statement of information to victims of rape or forcible sodomy, is  
 1658 amended as follows:

1659 "17-18-1.

1660 When any employee of the ~~Department of Human Resources~~, Department of Human  
 1661 Services, Department of Health, Department of Behavioral Health, a law enforcement  
 1662 agency, or a court has reason to believe that he or she in the course of official duties is  
 1663 speaking to an adult who is or has been a victim of a violation of Code Section 16-6-1,  
 1664 relating to rape, or Code Section 16-6-2, relating to aggravated sodomy, such employee  
 1665 shall offer or provide such adult a written statement of information for victims of rape or  
 1666 aggravated sodomy. Such written statement shall, at a minimum, include the information  
 1667 set out in Code Section 17-18-2 and may include additional information regarding

1668 resources available to victims of sexual assault. Information for victims of rape or  
 1669 aggravated sodomy may be provided in any language."

1670 **SECTION 1-19.**

1671 Code Section 19-3-35.1 of the Official Code of Georgia Annotated, relating to AIDS  
 1672 brochures for applicants for a marriage license, is amended by revising subsection (b) as  
 1673 follows:

1674 "(b) The ~~Department of Human Resources~~ Department of Health shall prepare a brochure  
 1675 describing AIDS, HIV, and the dangers, populations at risk, risk behaviors, and prevention  
 1676 measures relating thereto. That department shall also prepare a listing of sites at which  
 1677 confidential and anonymous HIV tests are provided without charge. That department shall  
 1678 further prepare a form for acknowledging that the brochures and listings have been  
 1679 received, as required by subsection (c) of this Code section. The brochures, listings, and  
 1680 forms prepared by the Department of Health (formerly known as the Department of Human  
 1681 Resources for these purposes) under this subsection shall be prepared and furnished to the  
 1682 office of each judge of the probate court no later than October 1, 1988."

1683 **SECTION 1-20.**

1684 Code Section 19-13-32 of the Official Code of Georgia Annotated, relating to the  
 1685 membership, terms, filling of vacancies, and officers of the State Commission on Family  
 1686 Violence, is amended by revising paragraph (1) of subsection (a) as follows:

1687 "(1) Three ex officio members shall be the director of the Division of Family and Children  
 1688 Services of the Department of Human Services, the director of Women's Health Services  
 1689 ~~in the division of public health~~ Division of Public Health of the Department of ~~Human~~  
 1690 ~~Resources~~ Health, and the Attorney General;"

1691 **SECTION 1-21.**

1692 Code Section 19-15-4 of the Official Code of Georgia Annotated, relating to Georgia Child  
 1693 Fatality Review Panel, is amended by revising subsection (c) as follows:

1694 "(c) The panel shall be composed as follows:

- 1695 (1) One district attorney appointed by the Governor;  
 1696 (2) One juvenile court judge appointed by the Governor;  
 1697 (3) Two citizen members who shall be appointed by the Governor, who are not employed  
 1698 by or officers of the state or any political subdivision thereof and one of whom shall come  
 1699 from each of the following: (A) a state-wide child abuse prevention organization; and (B)  
 1700 a state-wide childhood injury prevention organization;  
 1701 (4) One forensic pathologist appointed by the Governor;



- 1702 (5) The chairperson of the Board of Human ~~Resources~~ Services;
- 1703 (6) The director of the Division of Family and Children Services of the Department of
- 1704 Human ~~Resources~~ Services;
- 1705 (7) The director of the Georgia Bureau of Investigation;
- 1706 (8) The chairperson of the Criminal Justice Coordinating Council;
- 1707 (9) A member of the Georgia Senate appointed by the Lieutenant Governor;
- 1708 (10) A member of the Georgia House of Representatives appointed by the Speaker of the
- 1709 House of Representatives;
- 1710 (11) A local law enforcement official appointed by the Governor;
- 1711 (12) A superior court judge appointed by the Governor;
- 1712 (13) A coroner appointed by the Governor;
- 1713 (14) The Child Advocate for the Protection of Children;
- 1714 (15) The director of the Division of Public Health of the Department of ~~Human~~
- 1715 ~~Resources~~ Health; and
- 1716 (16) The ~~director~~ commissioner of the ~~Division of Mental Health, Developmental~~
- 1717 ~~Disabilities, and Addictive Diseases~~ of the ~~Department of Human Resources~~ behavioral
- 1718 health."

1719 **SECTION 1-22.**

1720 Code Section 20-2-260 of the Official Code of Georgia Annotated, relating to capital outlay

1721 funds generally, is amended by revising paragraphs (5) and (8) of subsection (c) as follows:

1722 "(5) To develop a state-wide needs assessment for purposes of planning and developing

1723 policies, anticipating state-wide needs for educational facilities, and providing assistance

1724 to local school systems in developing educational facilities plans. The state-wide needs

1725 assessment shall be developed from, among other sources, vital statistics published by the

1726 Department of ~~Human Resources~~ Health, census data published by the Bureau of the

1727 Census, local school system educational facilities and real property inventories, educational

1728 facilities surveys, full-time equivalent student projection research, and educational facilities

1729 construction plans; shall reflect circumstances where rapid population growth is caused by

1730 factors not reflected in full-time equivalent student projection research; and shall give

1731 priority to elementary school construction. In addition, the state board shall develop a

1732 consistent, systematic research approach to full-time equivalent student projections which

1733 will be used in the development of needs within each local unit. Projections shall not be

1734 confined to full-time equivalent resident students but shall be based on full-time equivalent

1735 student counts which include full-time equivalent nonresident students, whether or not such

1736 full-time equivalent nonresident students attend school pursuant to a contract between local

1737 school systems. The full-time equivalent projection shall be calculated in accordance with

1738 subsection (m) of this Code section. The survey team will use such projections in  
 1739 determining the improvements needed for the five-year planning period. The state board  
 1740 shall also develop schedules for allowable square footage and cost per square foot and  
 1741 review these schedules annually. The cost estimate for each recommended improvement  
 1742 included in the plan shall be based on these schedules. Any increase in cost or square  
 1743 footage for a project beyond that allowed by state board schedules for such projects shall  
 1744 be the responsibility of the local school system and shall not count toward present or future  
 1745 required local participation. The schedules for allowable square footage and cost per  
 1746 square foot shall be specified in regulations by the State Board of Education;"

1747 "(8) To coordinate construction project reviews with the state fire marshal's office and the  
 1748 Department of ~~Human Resources~~ Health;"

1749 **SECTION 1-23.**

1750 Code Section 26-4-192 of the Official Code of Georgia Annotated, relating to the state-wide  
 1751 program for distribution of unused prescription drugs for the benefit of medically indigent  
 1752 persons, is amended as follows:

1753 "26-4-192.

1754 (a) The Georgia State Board of Pharmacy, ~~the Department of Human Resources~~, and the  
 1755 Department of ~~Community~~ Health shall jointly develop and implement a state-wide  
 1756 program consistent with public health and safety standards through which unused  
 1757 prescription drugs, other than prescription drugs defined as controlled substances, may be  
 1758 transferred from health care facilities to pharmacies designated or approved by the  
 1759 Department of ~~Human Resources~~ Health for the purpose of distributing such drugs to  
 1760 residents of this state who are medically indigent persons.

1761 (b) The Georgia State Board of Pharmacy, ~~the Department of Human Resources~~, and the  
 1762 Department of ~~Community~~ Health shall be authorized to develop and implement a pilot  
 1763 program to determine the safest and most beneficial manner of implementing the program  
 1764 prior to the state-wide implementation of the program required in subsection (a) of this  
 1765 Code section.

1766 (c) The Georgia State Board of Pharmacy, in consultation with ~~the Department of Human~~  
 1767 ~~Resources~~ and the Department of ~~Community~~ Health, shall develop and promulgate rules  
 1768 and regulations to establish procedures necessary to implement the program and pilot  
 1769 program, if applicable, provided for in this Code section. The rules and regulations shall  
 1770 provide, at a minimum:

1771 (1) For an inclusionary formulary for the prescription drugs to be distributed pursuant  
 1772 to the program;

- 1773 (2) For the protection of the privacy of the individual for whom a prescription drug was  
 1774 originally prescribed;
- 1775 (3) For the integrity and safe storage and safe transfer of the prescription drugs, which  
 1776 may include, but shall not be limited to, limiting the drugs made available through the  
 1777 program to those that were originally dispensed by unit dose or an individually sealed  
 1778 dose and that remain in intact packaging; provided, however, that the rules and  
 1779 regulations shall authorize the use of any remaining prescription drugs;
- 1780 (4) For the tracking of and accountability for the prescription drugs; and
- 1781 (5) For other matters necessary for the implementation of the program.
- 1782 (d) The state-wide program required by this Code section shall be implemented no later  
 1783 than January 1, 2007, unless a pilot program is implemented pursuant to subsection (b) of  
 1784 this Code section, in which case state-wide implementation shall occur no later than July  
 1785 1, 2008."

1786 **SECTION 1-24.**

1787 Code Section 31-5-2 of the Official Code of Georgia Annotated, relating to hearings of the  
 1788 Department of Human Resources, is amended as follows:

1789 "31-5-2.

1790 (a) Hearings shall be required ~~with respect to~~ for any and all quasi-judicial actions and in  
 1791 any other proceeding required by this title or the Constitution of Georgia. All such  
 1792 hearings shall be conducted ~~as provided in this Code section~~ in accordance with Chapter  
 1793 13 of Title 50, the 'Georgia Administrative Procedure Act.'

1794 ~~(b) Where hearing is required or afforded, notice thereof as provided in this Code section~~  
 1795 ~~shall be given in person or by registered or certified mail or statutory overnight delivery~~  
 1796 ~~to all interested parties; provided, however, in proceedings where the number of interested~~  
 1797 ~~parties is so numerous as to make individual notice impracticable, notice shall be given by~~  
 1798 ~~publication or by such other means reasonably calculated to afford actual notice as may be~~  
 1799 ~~prescribed by the agency or person conducting such hearing. All notices shall state (1) the~~  
 1800 ~~time and place of hearing and nature thereof and (2) the matters of fact and law asserted~~  
 1801 ~~and must be given at least five days before the day set for hearing unless the agency~~  
 1802 ~~determines that an imminent threat to the public health exists which requires shorter notice.~~

1803 ~~(c) All interested parties at such hearings shall have, upon request, compulsory process as~~  
 1804 ~~provided in Code Section 31-5-4 and shall have the right to adduce evidence and conduct~~  
 1805 ~~cross-examination of all adverse witnesses. Any member of the department or county~~  
 1806 ~~boards of health, as the case may be, their authorized officials or agents, or any attorney~~  
 1807 ~~at law may administer oaths to all witnesses. No witness shall be abused while under~~

1808 ~~examination or required to incriminate himself. Where possible, all evidence and~~  
 1809 ~~proceedings shall be reported.~~

1810 ~~(d) The department is authorized and empowered to employ and appoint hearing~~  
 1811 ~~examiners to conduct hearings, issue compulsory process, administer oaths, and submit~~  
 1812 ~~their findings and recommendations to the appointing agency; provided, however, that any~~  
 1813 ~~such examiner shall be a member in good standing of the State Bar of Georgia. A county~~  
 1814 ~~board of health is authorized and empowered to direct its director or the director's~~  
 1815 ~~appointee to conduct hearings, issue compulsory process, administer oaths, and submit his~~  
 1816 ~~findings and recommendations to the county board of health. In both of such cases, the~~  
 1817 ~~examiner and director or the director's appointee shall make the report available to all~~  
 1818 ~~interested parties, and such parties are permitted to file written exception thereto prior to~~  
 1819 ~~final decision thereon."~~

#### 1820 **SECTION 1-25.**

1821 Code Section 31-6-21.1 of the Official Code of Georgia Annotated, relating to procedures  
 1822 for rule making by the Department of Community Health, is amended by adding a new  
 1823 subsection to the end of the Code section to read as follows:

1824 "(j) This Code section shall apply only to rules adopted pursuant to this chapter."

#### 1825 **SECTION 1-26.**

1826 Code Section 31-6-40 of the Official Code of Georgia Annotated, relating to a certificate of  
 1827 need required for new institutional health services, is amended by revising paragraph (1) of  
 1828 subsection (c) as follows:

1829 "(c)(1) Any person who had a valid exemption granted or approved by the former Health  
 1830 Planning Agency or the former Department of Community Health (now known as the  
 1831 Department of Health) prior to July 1, 2008, shall not be required to obtain a certificate of  
 1832 need in order to continue to offer those previously offered services."

#### 1833 **SECTION 1-27.**

1834 Code Section 31-6-48 of the Official Code of Georgia Annotated, relating to the abolishment  
 1835 of prior entities and the transfer of contractual obligations, is amended as follows:

1836 "31-6-48.

1837 The State Health Planning and Development Agency, the State-wide Health Coordinating  
 1838 Council, and the State Health Planning Review Board existing immediately prior to July  
 1839 1, 1983, are abolished, and their respective successors on and after July 1, 1983, shall be  
 1840 the Health Planning Agency, the Health Policy Council, and the Health Planning Review  
 1841 Board, as established in this chapter, except that on and after July 1, 1991, the Health

1842 Strategies Council shall be the successor to the Health Policy Council, and except that on  
 1843 and after July 1, 1999, the Department of Community Health (now known as the  
 1844 Department of Health) shall be the successor to the Health Planning Agency, and except  
 1845 that on and after July 1, 2008, the Board of Community Health (now known as the State  
 1846 Board of Health) shall be the successor to the duties of the Health Strategies Council with  
 1847 respect to adoption of the state health plan, and except that on June 30, 2008, the Health  
 1848 Planning Review Board is abolished and the terms of all members on such board on such  
 1849 date shall automatically terminate and the Certificate of Need Appeal Panel shall be the  
 1850 successor to the duties of the Health Planning Review Board on such date. For purposes  
 1851 of any existing contract with the federal government, or federal law referring to such  
 1852 abolished agency, council, or board, the successor department, council, or board  
 1853 established in this chapter or in Chapter 5A 2 of this title shall be deemed to be the  
 1854 abolished agency, council, or board and shall succeed to the abolished agency's, council's,  
 1855 or board's functions. The State Health Planning and Development Commission is  
 1856 abolished."

#### 1857 **SECTION 1-28.**

1858 Code Section 31-6-49 of the Official Code of Georgia Annotated, relating to transitional  
 1859 provisions with respect to the certificate of need program, is amended as follows:

1860 "31-6-49.

1861 All matters transferred to the Health Planning Agency by the previously existing provisions  
 1862 of this Code section and that are in effect on June 30, 1999, shall automatically be  
 1863 transferred to the Department of Community Health (now known as the Department of  
 1864 Health) on July 1, 1999. All matters of the Health Planning Review Board that are pending  
 1865 on June 30, 2008, shall automatically be transferred to the Certificate of Need Appeal Panel  
 1866 established pursuant to Code Section 31-6-44."

#### 1867 **SECTION 1-29.**

1868 Code Section 31-7-2.2 of the Official Code of Georgia Annotated, relating to determination  
 1869 that patients or residents in an institution, community living arrangement, or treatment  
 1870 program are in danger, is amended as follows:

1871 "31-7-2.2.

1872 (a)(1) The commissioner may order the emergency relocation of patients or residents  
 1873 from an institution subject to licensure under this chapter, ~~a community living~~  
 1874 ~~arrangement subject to licensure under paragraph (16) of subsection (b) and subsection~~  
 1875 ~~(c) of Code Section 37-1-20~~, or a drug abuse treatment and education program subject to

1876 licensure under Chapter 5 of Title 26 when the commissioner has determined that the  
1877 patients or residents are subject to an imminent and substantial danger.

1878 (2) When an order is issued under this subsection, the commissioner shall provide for:

1879 (A) Notice to the patient or resident, his or her next of kin or guardian, and his or her  
1880 physician of the emergency relocation and the reasons therefor;

1881 (B) Relocation to the nearest appropriate institution, ~~community living arrangement,~~  
1882 or drug abuse treatment and education program; and

1883 (C) Other protection designed to ensure the welfare and, when possible, the desires of  
1884 the patient or resident.

1885 (b)(1) The commissioner may order the emergency placement of a monitor in an  
1886 institution subject to licensure under this chapter, ~~a community living arrangement~~  
1887 ~~subject to licensure under paragraph (16) of subsection (b) and subsection (c) of Code~~  
1888 ~~Section 37-1-20,~~ or a drug abuse treatment and education program subject to licensure  
1889 under Chapter 5 of Title 26 when one or more of the following conditions are present:

1890 (A) The institution, ~~community living arrangement,~~ or drug abuse treatment and  
1891 education program is operating without a permit or a license;

1892 (B) The department has denied application for a permit or a license or has initiated  
1893 action to revoke the existing permit or license of the institution, ~~community living~~  
1894 ~~arrangement,~~ or drug abuse treatment and education program;

1895 (C) The institution, ~~community living arrangement,~~ or drug abuse treatment and  
1896 education program is closing or plans to close and adequate arrangements for relocation  
1897 of the patients or residents have not been made at least 30 days before the date of  
1898 closure; or

1899 (D) The health, safety, security, rights, or welfare of the patients or residents cannot  
1900 be adequately assured by the institution, ~~community living arrangement,~~ or drug abuse  
1901 treatment and education program.

1902 (2) A monitor may be placed, pursuant to this subsection, in an institution, ~~community~~  
1903 ~~living arrangement,~~ or drug abuse treatment and education program for no more than ten  
1904 days, during which time the monitor shall observe conditions and compliance with any  
1905 recommended remedial action of the department by the institution, ~~community living~~  
1906 ~~arrangement,~~ or drug abuse treatment and education program. The monitor shall report  
1907 to the department. The monitor shall not assume any administrative responsibility within  
1908 the institution, ~~community living arrangement,~~ or drug abuse treatment and education  
1909 program nor shall the monitor be liable for any actions of the institution, ~~community~~  
1910 ~~living arrangement,~~ or drug abuse treatment and education program. The costs of placing  
1911 a monitor in an institution, ~~community living arrangement,~~ or drug abuse treatment and  
1912 education program shall be paid by the institution, ~~community living arrangement,~~ or

1913 drug abuse treatment and education program unless the order placing the monitor is  
 1914 determined to be invalid in a contested case proceeding under subsection (d) of this Code  
 1915 section, in which event the costs shall be paid by the state.

1916 (c)(1) The commissioner may order the emergency prohibition of admissions to an  
 1917 institution subject to licensure under this chapter, ~~a community living arrangement~~  
 1918 ~~subject to licensure under paragraph (16) of subsection (b) and subsection (c) of Code~~  
 1919 ~~Section 37-1-20~~, or program subject to licensure under Chapter 5 of Title 26 when an  
 1920 such institution, ~~community living arrangement~~, or drug abuse treatment and education  
 1921 program has failed to correct a violation of departmental permit rules or regulations  
 1922 within a reasonable period of time, as specified in the department's corrective order, and  
 1923 the violation:

1924 (A) Could jeopardize the health and safety of the residents or patients in the institution;  
 1925 ~~community living arrangement~~, or drug abuse treatment and education program if  
 1926 allowed to remain uncorrected; or

1927 (B) Is a repeat violation over a 12 month period, which is intentional or due to gross  
 1928 negligence.

1929 (2) Admission to an institution, ~~community living arrangement~~, or drug abuse treatment  
 1930 and education program may be suspended until the violation has been corrected or until  
 1931 the department has determined that the institution, ~~community living arrangement~~, or  
 1932 drug abuse treatment and education program has undertaken the action necessary to effect  
 1933 correction of the violation.

1934 (d) The commissioner may issue emergency orders pursuant to this Code section only if  
 1935 authorized by rules and regulations of the department. Unless otherwise provided in the  
 1936 order, an emergency order shall become effective immediately. The department shall hold  
 1937 a preliminary hearing within ten days following a request therefor by any institution;  
 1938 ~~community living arrangement~~, or drug abuse treatment and education program affected  
 1939 by an emergency order. If at the preliminary hearing the order is determined by the  
 1940 department to be invalid, that order shall thereupon become void and of no effect. If at the  
 1941 preliminary hearing the order is determined by the department to be valid, that  
 1942 determination shall constitute a contested case under Chapter 13 of Title 50, the 'Georgia  
 1943 Administrative Procedure Act,' and that order shall remain in effect until determined  
 1944 invalid in a proceeding regarding the contested case or until rescinded by the  
 1945 commissioner, whichever is earlier. For purposes of this subsection, an emergency order  
 1946 is valid only if the order is authorized to be issued under this Code section and rules and  
 1947 regulations relating thereto.

1948 (e) The powers provided by this Code section are cumulative of all other powers of the  
 1949 department, board, and commissioner."

**SECTION 1-30.**

1950

1951 Code Section 31-7-12 of the Official Code of Georgia Annotated, relating to regulation of  
 1952 personal care homes, is amended by revising paragraph (1) of subsection (a) as follows:

1953 "(1) 'Personal care home' means any dwelling, whether operated for profit or not, which  
 1954 undertakes through its ownership or management to provide or arrange for the provision  
 1955 of housing, food service, and one or more personal services for two or more adults who  
 1956 are not related to the owner or administrator by blood or marriage. This term shall not  
 1957 include host homes, as defined in paragraph ~~(16)~~(12) of subsection (b) of Code Section  
 1958 ~~37-1-20~~ 49-2-6."

**SECTION 1-31.**

1959

1960 Code Section 31-7-17 of the Official Code of Georgia Annotated, relating to licensure and  
 1961 regulation of hospitals and related institutions transferred to Department of Community  
 1962 Health, is amended as follows:

1963 "31-7-17.

1964 (a) Effective July 1, 2009, all matters relating to the licensure and regulation of hospitals  
 1965 and related institutions pursuant to this article shall be transferred from the Department of  
 1966 Human Resources (now known as the Department of Human Services) to the Department  
 1967 of ~~Community~~ Health.

1968 (b) The Department of ~~Community~~ Health shall succeed to all rules, regulations, policies,  
 1969 procedures, and administrative orders of the Department of Human Resources that are in  
 1970 effect on June 30, 2009, or scheduled to go into effect on or after July 1, 2009, and which  
 1971 relate to the functions transferred to the Department of ~~Community~~ Health pursuant to this  
 1972 Code section and shall further succeed to any rights, privileges, entitlements, obligations,  
 1973 and duties of the Department of Human Resources that are in effect on June 30, 2009,  
 1974 which relate to the functions transferred to the Department of ~~Community~~ Health pursuant  
 1975 to this Code section. Such rules, regulations, policies, procedures, and administrative  
 1976 orders shall remain in effect until amended, repealed, superseded, or nullified by the  
 1977 Department of ~~Community~~ Health by proper authority or as otherwise provided by law.

1978 (c) The rights, privileges, entitlements, and duties of parties to contracts, leases,  
 1979 agreements, and other transactions entered into before July 1, 2009, by the Department of  
 1980 Human Resources which relate to the functions transferred to the Department of  
 1981 ~~Community~~ Health pursuant to this Code section shall continue to exist; and none of these  
 1982 rights, privileges, entitlements, and duties are impaired or diminished by reason of the  
 1983 transfer of the functions to the Department of ~~Community~~ Health. In all such instances,  
 1984 the Department of ~~Community~~ Health shall be substituted for the Department of Human



1985 Resources, and the Department of ~~Community~~ Health shall succeed to the rights and duties  
 1986 under such contracts, leases, agreements, and other transactions.

1987 (d) All persons employed by the Department of Human Resources in capacities which  
 1988 relate to the functions transferred to the Department of ~~Community~~ Health pursuant to this  
 1989 Code section on June 30, 2009, shall, on July 1, 2009, become employees of the  
 1990 Department of ~~Community~~ Health in similar capacities, as determined by the commissioner  
 1991 of ~~community~~ health. Such employees shall be subject to the employment practices and  
 1992 policies of the Department of ~~Community~~ Health on and after July 1, 2009, but the  
 1993 compensation and benefits of such transferred employees shall not be reduced as a result  
 1994 of such transfer. Employees who are subject to the rules of the State Personnel Board and  
 1995 thereby under the State Merit System of Personnel Administration and who are transferred  
 1996 to the department shall retain all existing rights under the State Merit System of Personnel  
 1997 Administration. Retirement rights of such transferred employees existing under the  
 1998 Employees' Retirement System of Georgia or other public retirement systems on June 30,  
 1999 2009, shall not be impaired or interrupted by the transfer of such employees and  
 2000 membership in any such retirement system shall continue in the same status possessed by  
 2001 the transferred employees on June 30, 2009. Accrued annual and sick leave possessed by  
 2002 said employees on June 30, 2009, shall be retained by said employees as employees of the  
 2003 Department of ~~Community~~ Health."

#### 2004 **SECTION 1-32.**

2005 Code Section 31-7-95 of the Official Code of Georgia Annotated, relating to funding of  
 2006 medical education provided by hospital authorities and designated teaching hospitals, is  
 2007 amended by revising subsection (a) as follows:

2008 "(a) As used in this Code section, the term:

2009 (1) 'Designated teaching hospital' means a teaching hospital operated by other than a  
 2010 hospital authority, which hospital agrees to contract with the state to offer or continue to  
 2011 offer a residency program approved by the American Medical Association, which  
 2012 program has at least 50 residents and which hospital operates a 24 hour,  
 2013 seven-day-per-week emergency room open to the public and which hospital files a  
 2014 semiannual statistical report consistent with those filed by other state funded tertiary,  
 2015 neonatal, obstetrical centers with the ~~Family Health Section of the Department of Human~~  
 2016 ~~Resources~~ Department of Health.

2017 (2) 'Hospital authority' means a hospital authority operating a teaching hospital which  
 2018 offers a residency program approved by the American Medical Association.

2019 (3) 'Resident' means a physician receiving medical education and training through a  
 2020 teaching hospital operated by a hospital authority or designated teaching hospital."

**SECTION 1-33.**

2021  
2022 Code Section 31-7-159 of the Official Code of Georgia Annotated, relating to licensure and  
2023 regulation of home health agencies transferred to Department of Community Health, is  
2024 amended as follows:

2025 "31-7-159.

2026 (a) Effective July 1, 2009, all matters relating to the licensure and regulation of home  
2027 health agencies pursuant to this article shall be transferred from the Department of Human  
2028 Resources (now known as the Department of Human Services) to the Department of  
2029 Community Health.

2030 (b) The Department of Community Health shall succeed to all rules, regulations, policies,  
2031 procedures, and administrative orders of the Department of Human Resources that are in  
2032 effect on June 30, 2009, or scheduled to go into effect on or after July 1, 2009, and which  
2033 relate to the functions transferred to the Department of Community Health pursuant to this  
2034 Code section and shall further succeed to any rights, privileges, entitlements, obligations,  
2035 and duties of the Department of Human Resources that are in effect on June 30, 2009,  
2036 which relate to the functions transferred to the Department of Community Health pursuant  
2037 to this Code section. Such rules, regulations, policies, procedures, and administrative  
2038 orders shall remain in effect until amended, repealed, superseded, or nullified by the  
2039 Department of Community Health by proper authority or as otherwise provided by law.

2040 (c) The rights, privileges, entitlements, and duties of parties to contracts, leases,  
2041 agreements, and other transactions entered into before July 1, 2009, by the Department of  
2042 Human Resources which relate to the functions transferred to the Department of  
2043 Community Health pursuant to this Code section shall continue to exist; and none of these  
2044 rights, privileges, entitlements, and duties are impaired or diminished by reason of the  
2045 transfer of the functions to the Department of Community Health. In all such instances,  
2046 the Department of Community Health shall be substituted for the Department of Human  
2047 Resources, and the Department of Community Health shall succeed to the rights and duties  
2048 under such contracts, leases, agreements, and other transactions.

2049 (d) All persons employed by the Department of Human Resources in capacities which  
2050 relate to the functions transferred to the Department of Community Health pursuant to this  
2051 Code section on June 30, 2009, shall, on July 1, 2009, become employees of the  
2052 Department of Community Health in similar capacities, as determined by the commissioner  
2053 of community health. Such employees shall be subject to the employment practices and  
2054 policies of the Department of Community Health on and after July 1, 2009, but the  
2055 compensation and benefits of such transferred employees shall not be reduced as a result  
2056 of such transfer. Employees who are subject to the rules of the State Personnel Board and  
2057 thereby under the State Merit System of Personnel Administration and who are transferred

2058 to the department shall retain all existing rights under the State Merit System of Personnel  
 2059 Administration. Retirement rights of such transferred employees existing under the  
 2060 Employees' Retirement System of Georgia or other public retirement systems on June 30,  
 2061 2009, shall not be impaired or interrupted by the transfer of such employees and  
 2062 membership in any such retirement system shall continue in the same status possessed by  
 2063 the transferred employees on June 30, 2009. Accrued annual and sick leave possessed by  
 2064 said employees on June 30, 2009, shall be retained by said employees as employees of the  
 2065 Department of ~~Community~~ Health."

#### 2066 **SECTION 1-34.**

2067 Code Section 31-7-265 of the Official Code of Georgia Annotated, relating to facility  
 2068 licensing and employee records checks for personal care homes transferred to Department  
 2069 of Community Health, is amended as follows:

2070 "31-7-265.

2071 (a) Effective July 1, 2009, all matters relating to facility licensing and employee records  
 2072 checks for personal care homes pursuant to this article shall be transferred from the  
 2073 Department of Human Resources (now known as the Department of Human Services) to  
 2074 the Department of ~~Community~~ Health.

2075 (b) The Department of ~~Community~~ Health shall succeed to all rules, regulations, policies,  
 2076 procedures, and administrative orders of the Department of Human Resources that are in  
 2077 effect on June 30, 2009, or scheduled to go into effect on or after July 1, 2009, and which  
 2078 relate to the functions transferred to the Department of ~~Community~~ Health pursuant to this  
 2079 Code section and shall further succeed to any rights, privileges, entitlements, obligations,  
 2080 and duties of the Department of Human Resources that are in effect on June 30, 2009,  
 2081 which relate to the functions transferred to the Department of ~~Community~~ Health pursuant  
 2082 to this Code section. Such rules, regulations, policies, procedures, and administrative  
 2083 orders shall remain in effect until amended, repealed, superseded, or nullified by the  
 2084 Department of ~~Community~~ Health by proper authority or as otherwise provided by law.

2085 (c) The rights, privileges, entitlements, and duties of parties to contracts, leases,  
 2086 agreements, and other transactions entered into before July 1, 2009, by the Department of  
 2087 Human Resources which relate to the functions transferred to the Department of  
 2088 ~~Community~~ Health pursuant to this Code section shall continue to exist; and none of these  
 2089 rights, privileges, entitlements, and duties are impaired or diminished by reason of the  
 2090 transfer of the functions to the Department of ~~Community~~ Health. In all such instances,  
 2091 the Department of ~~Community~~ Health shall be substituted for the Department of Human  
 2092 Resources, and the Department of ~~Community~~ Health shall succeed to the rights and duties  
 2093 under such contracts, leases, agreements, and other transactions.

2094 (d) All persons employed by the Department of Human Resources in capacities which  
 2095 relate to the functions transferred to the Department of ~~Community~~ Health pursuant to this  
 2096 Code section on June 30, 2009, shall, on July 1, 2009, become employees of the  
 2097 Department of ~~Community~~ Health in similar capacities, as determined by the commissioner  
 2098 of ~~community~~ health. Such employees shall be subject to the employment practices and  
 2099 policies of the Department of ~~Community~~ Health on and after July 1, 2009, but the  
 2100 compensation and benefits of such transferred employees shall not be reduced as a result  
 2101 of such transfer. Employees who are subject to the rules of the State Personnel Board and  
 2102 thereby under the State Merit System of Personnel Administration and who are transferred  
 2103 to the department shall retain all existing rights under the State Merit System of Personnel  
 2104 Administration. Retirement rights of such transferred employees existing under the  
 2105 Employees' Retirement System of Georgia or other public retirement systems on June 30,  
 2106 2009, shall not be impaired or interrupted by the transfer of such employees and  
 2107 membership in any such retirement system shall continue in the same status possessed by  
 2108 the transferred employees on June 30, 2009. Accrued annual and sick leave possessed by  
 2109 said employees on June 30, 2009, shall be retained by said employees as employees of the  
 2110 Department of ~~Community~~ Health."

#### 2111 **SECTION 1-35.**

2112 Code Section 31-7-308 of the Official Code of Georgia Annotated, relating to licensure and  
 2113 regulation of private home care providers transferred to Department of Community Health,  
 2114 is amended as follows:

2115 "31-7-308.

2116 (a) Effective July 1, 2009, all matters relating to the licensure and regulation of private  
 2117 home care providers pursuant to this article shall be transferred from the Department of  
 2118 Human Resources (now known as the Department of Human Services) to the Department  
 2119 of ~~Community~~ Health.

2120 (b) The Department of ~~Community~~ Health shall succeed to all rules, regulations, policies,  
 2121 procedures, and administrative orders of the Department of Human Resources that are in  
 2122 effect on June 30, 2009, or scheduled to go into effect on or after July 1, 2009, and which  
 2123 relate to the functions transferred to the Department of ~~Community~~ Health pursuant to this  
 2124 Code section and shall further succeed to any rights, privileges, entitlements, obligations,  
 2125 and duties of the Department of Human Resources that are in effect on June 30, 2009,  
 2126 which relate to the functions transferred to the Department of ~~Community~~ Health pursuant  
 2127 to this Code section. Such rules, regulations, policies, procedures, and administrative  
 2128 orders shall remain in effect until amended, repealed, superseded, or nullified by the  
 2129 Department of ~~Community~~ Health by proper authority or as otherwise provided by law.

2130 (c) The rights, privileges, entitlements, and duties of parties to contracts, leases,  
 2131 agreements, and other transactions entered into before July 1, 2009, by the Department of  
 2132 Human Resources which relate to the functions transferred to the Department of  
 2133 ~~Community~~ Health pursuant to this Code section shall continue to exist; and none of these  
 2134 rights, privileges, entitlements, and duties are impaired or diminished by reason of the  
 2135 transfer of the functions to the Department of ~~Community~~ Health. In all such instances,  
 2136 the Department of ~~Community~~ Health shall be substituted for the Department of Human  
 2137 Resources, and the Department of ~~Community~~ Health shall succeed to the rights and duties  
 2138 under such contracts, leases, agreements, and other transactions.

2139 (d) All persons employed by the Department of Human Resources in capacities which  
 2140 relate to the functions transferred to the Department of ~~Community~~ Health pursuant to this  
 2141 Code section on June 30, 2009, shall, on July 1, 2009, become employees of the  
 2142 Department of ~~Community~~ Health in similar capacities, as determined by the commissioner  
 2143 of ~~community~~ health. Such employees shall be subject to the employment practices and  
 2144 policies of the Department of ~~Community~~ Health on and after July 1, 2009, but the  
 2145 compensation and benefits of such transferred employees shall not be reduced as a result  
 2146 of such transfer. Employees who are subject to the rules of the State Personnel Board and  
 2147 thereby under the State Merit System of Personnel Administration and who are transferred  
 2148 to the department shall retain all existing rights under the State Merit System of Personnel  
 2149 Administration. Retirement rights of such transferred employees existing under the  
 2150 Employees' Retirement System of Georgia or other public retirement systems on June 30,  
 2151 2009, shall not be impaired or interrupted by the transfer of such employees and  
 2152 membership in any such retirement system shall continue in the same status possessed by  
 2153 the transferred employees on June 30, 2009. Accrued annual and sick leave possessed by  
 2154 said employees on June 30, 2009, shall be retained by said employees as employees of the  
 2155 Department of ~~Community~~ Health."

#### 2156 **SECTION 1-36.**

2157 Code Section 31-8-192 of the Official Code of Georgia Annotated, relating to definitions  
 2158 relative to the "'Health Share' Volunteers in Medicine Act," is amended by revising  
 2159 subparagraph (D) of paragraph (6) as follows:

2160 "(D) Any client or beneficiary of the department, ~~or the Department of Human~~  
 2161 ~~Resources Services, or the Department of Behavioral Health~~ who voluntarily chooses  
 2162 to participate in a program offered or approved by the department, ~~or the Department~~  
 2163 ~~of Human Resources Services, or the Department of Behavioral Health~~ and meets the  
 2164 program eligibility guidelines of the department, ~~or the Department of Human~~  
 2165 ~~Resources Services, or the Department of Behavioral Health~~ whose family income does

2166 not exceed 200 percent of the federal poverty level as defined annually by the federal  
2167 Office of Management and Budget."

2168 **SECTION 1-37.**

2169 Code Section 31-11-2 of the Official Code of Georgia Annotated, relating to definitions  
2170 relative to emergency medical services, is amended by revising paragraphs (3), (5), and (6.1)  
2171 as follows:

2172 "(3) 'Ambulance provider' means an agency or company providing ambulance service  
2173 which is operating under a valid license from the Emergency Health Section of the  
2174 Division of Public Health of the Department of ~~Human Resources~~ Health."

2175 "(5) 'Cardiac technician' means a person who, having been trained and certified as an  
2176 emergency medical technician and having completed additional training in advanced  
2177 cardiac life support techniques in a training course approved by the department, is so  
2178 certified by the Composite State Board of Medical Examiners prior to January 1, 2002,  
2179 or the Department of Human Resources (now known as the Department of Health for  
2180 these purposes) on and after January 1, 2002."

2181 "(6.1) 'Department' means the Department of ~~Human Resources~~ Health."

2182 **SECTION 1-38.**

2183 Code Section 31-11-50 of the Official Code of Georgia Annotated, relating to medical  
2184 advisers relative to emergency medical services, is amended by revising subsection (a) as  
2185 follows:

2186 "(a) To enhance the provision of emergency medical care, each ambulance service shall  
2187 be required to have a medical adviser. The adviser shall be a physician licensed to practice  
2188 medicine in this state and subject to approval by the medical consultant of the Emergency  
2189 Health Section of the Division of ~~Physical Public~~ Public Health of the ~~Department of Human~~  
2190 ~~Resources~~ Department of Health. Ambulance services unable to obtain a medical adviser,  
2191 due to unavailability or refusal of physicians to act as medical advisers, may request the  
2192 district health director or his or her designee to act as medical adviser until the services of  
2193 a physician are available."

2194 **SECTION 1-39.**

2195 Code Section 31-11-53.1 of the Official Code of Georgia Annotated, relating to automated  
2196 external defibrillator program, is amended by revising paragraph (1) of subsection (b) as  
2197 follows:

2198 "(1) It is recommended that all persons who have access to or use an automated external  
2199 defibrillator obtain appropriate training as set forth in the ~~Rules and Regulations~~ rules and

2200 regulations of the Department of ~~Health Human Resources Chapter 290-5-30~~. It is further  
2201 recommended that such training include at a minimum the successful completion of:

2202 (A) A nationally recognized health care provider/professional rescuer level  
2203 cardiopulmonary resuscitation course; and

2204 (B) A department established or approved course which includes demonstrated  
2205 proficiency in the use of an automated external defibrillator;"

2206 **SECTION 1-40.**

2207 Code Section 31-13-25 of the Official Code of Georgia Annotated, relating to rules,  
2208 regulations, agreements, and contracts formerly under the Department of Human Resources  
2209 with respect to radiation control, is amended as follows:

2210 "31-13-25.

2211 All rules and regulations, agreements, contracts, or other instruments which involve  
2212 radioactive materials heretofore under the jurisdiction of the Department of Human  
2213 Resources (now known as the Department of Health for these purposes) will, by operation  
2214 of law, be assumed by the Department of Natural Resources on April 4, 1990."

2215 **SECTION 1-41.**

2216 Code Section 31-15-4 of the Official Code of Georgia Annotated, relating to a cancer control  
2217 officer, is amended as follows:

2218 "31-15-4.

2219 The commissioner shall appoint a cancer control officer. The cancer control officer shall  
2220 be a physician licensed to practice medicine under Chapter 34 of Title 43 and ~~must~~ shall  
2221 be knowledgeable in the field of medicine covered by this chapter. He or she shall  
2222 administer the cancer program for the Division of ~~Physical~~ Public Health of the ~~Department~~  
2223 ~~of Human Resources~~ Department of Health in compliance with this chapter. He or she  
2224 shall be provided an office with clerical and administrative assistance to carry out this  
2225 program."

2226 **SECTION 1-42.**

2227 Code Section 33-21-20.1 of the Official Code of Georgia Annotated, relating to regulation  
2228 of health maintenance organizations by the commissioner of human resources, is amended  
2229 as follows:

2230 "33-21-20.1.

2231 On May 13, 2004, all health maintenance organizations meeting the requirements of  
2232 subsection (b.1) of Code Section 33-21-3 shall not be subject to regulation by the  
2233 commissioner of human resources (now known as the commissioner of health for these

2234 purposes). Upon the Commissioner of Insurance's determination that a health maintenance  
 2235 organization no longer meets the requirements of subsection (b.1) of Code Section 33-21-3,  
 2236 the Commissioner shall immediately notify the commissioner of ~~human resources~~ health;  
 2237 and such health maintenance organization shall be subject to regulation by the  
 2238 commissioner of ~~human resources~~ health until such time as it again meets the requirements  
 2239 of subsection (b.1) of Code Section 33-21-3 as determined by the Commissioner of  
 2240 Insurance."

#### 2241 **SECTION 1-43.**

2242 Code Section 33-21A-10 of the Official Code of Georgia Annotated, relating to new and  
 2243 renewal agreements with care management organizations and health care providers, is  
 2244 amended as follows:

2245 "33-21A-10.

2246 (a) On and after May 13, 2008, the Department of Community Health, now known as the  
 2247 Department of Health, shall include provisions in all new or renewal agreements with a  
 2248 care management organization, which provisions require the care management organization  
 2249 to comply with all provisions of this chapter.

2250 (b) On and after May 13, 2008, a care management organization shall not include any  
 2251 provisions in new or renewal agreements with providers entered into pursuant to the  
 2252 contract between the Department of Community Health (now known as the Department of  
 2253 Health) and the care management organization, which provisions are inconsistent with the  
 2254 provisions of this chapter."

#### 2255 **SECTION 1-44.**

2256 Code Section 33-24-56.3 of the Official Code of Georgia Annotated, relating to colorectal  
 2257 cancer screening and testing, is amended by revising paragraph (1) of subsection (a) as  
 2258 follows:

2259 "(1) 'Health benefit policy' means any individual or group plan, policy, or contract for  
 2260 health care services issued, delivered, issued for delivery, executed, or renewed by an  
 2261 insurer in this state on or after July 1, 2002, including, but not limited to, those contracts  
 2262 executed by the Department of ~~Community~~ Health pursuant to paragraph (1) of  
 2263 subsection ~~(f)~~(d) of Code Section ~~31-5A-4~~ 31-2-4. The term 'health benefit policy' does  
 2264 not include the following limited benefit insurance policies: accident only, CHAMPUS  
 2265 supplement, dental, disability income, fixed indemnity, long-term care, medicare  
 2266 supplement, specified disease, vision, and nonrenewable individual policies written for  
 2267 a period of less than six months."



**SECTION 1-45.**

2268

2269 Code Section 33-24-59.2 of the Official Code of Georgia Annotated, relating to insurance  
 2270 coverage for equipment and self-management training for individuals with diabetes, is  
 2271 amended by revising subsection (b) as follows:

2272 "(b)(1) Diabetes outpatient self-management training and education as provided for in  
 2273 subsection (a) of this Code section shall be provided by a certified, registered, or licensed  
 2274 health care professional with expertise in diabetes.

2275 (2) The office of the Commissioner of Insurance shall promulgate rules and regulations  
 2276 after consultation with the Department of ~~Human Resources~~ Health which conform to the  
 2277 current standards for diabetes outpatient self-management training and educational  
 2278 services established by the American Diabetes Association for purposes of this Code  
 2279 section.

2280 (3) The office of the Commissioner of Insurance shall promulgate rules and regulations,  
 2281 relating to standards of diabetes care, to become effective July 1, 2002, after consultation  
 2282 with the Department of Human Resources (now known as the Department of Health for  
 2283 these purposes), the American Diabetes Association, and the National Institutes of  
 2284 Health. Such rules and regulations shall be adopted in accordance with the provisions of  
 2285 Code Section 33-2-9."

**SECTION 1-46.**

2286

2287 Code Section 33-45-3 of the Official Code of Georgia Annotated, relating to certificates of  
 2288 authority required for operation of continuing care facilities, is amended as follows:

2289 "33-45-3.

2290 Nothing in this title or chapter shall be deemed to authorize any provider of a continuing  
 2291 care facility to transact any insurance business other than that of continuing care insurance  
 2292 or otherwise to engage in any other type of insurance unless it is authorized under a  
 2293 certificate of authority issued by the department under this title. Nothing in this chapter  
 2294 shall be construed so as to interfere with the jurisdiction of ~~the Department of Human~~  
 2295 ~~Resources~~, the Department of ~~Community~~ Health, or any other regulatory body exercising  
 2296 authority over continuing care providers."

**SECTION 1-47.**

2297

2298 Code Section 43-10A-7 of the Official Code of Georgia Annotated, relating to licensing  
 2299 requirements for professional counselors, social workers, and marriage and family therapists,  
 2300 is amended by revising paragraphs (3) and (12) of subsection (b) as follows:

2301 "(3)(A) Persons who, prior to July 1, 2000, engaged in the practice of a specialty as an  
 2302 employee of any community service board or similar entity created by general law to

2303 provide services to persons with disabilities, as defined in Chapter 2 of Title 37, or any  
 2304 agency or department of the state or any of its political subdivisions, but only when  
 2305 engaged in that practice as an employee of such an agency or department.

2306 (B) Persons who engage in the practice of social work as employees of any community  
 2307 service board or similar entity created by general law to provide services to persons with  
 2308 disabilities, as defined in Chapter 2 of Title 37, or any agency or department of the state  
 2309 or any of its political subdivisions, but only when engaged in that practice as employees  
 2310 of such community service board or similar entity, agency, or department, and persons or  
 2311 entities which contract to provide social work services with any community service board  
 2312 or similar entity or any agency or department of the state or any of its political  
 2313 subdivisions, but such contracting persons and entities shall only be exempt under this  
 2314 subparagraph when engaged in providing social work services pursuant to those contracts  
 2315 and shall only be exempt until January 1, 1996.

2316 (C) Persons who engage in the practice of professional counseling as employees of  
 2317 privately owned correctional facilities, the Department of Corrections, Department of  
 2318 ~~Human Resources~~ Health, Department of Behavioral Health, Department of Human  
 2319 Services, any county board of health, or any community service board or similar entity  
 2320 created by general law to provide services to persons with disabilities, as defined in  
 2321 Chapter 2 of Title 37, but only when engaged in that practice as employees of such  
 2322 privately owned correctional facility, department, board, or entity and persons or entities  
 2323 which contract to provide professional counseling services with such department or county  
 2324 board of health, but such contracting persons and entities shall only be exempt under this  
 2325 subparagraph when engaged in providing professional counseling services pursuant to  
 2326 those contracts and shall only be exempt until January 1, 1996;"

2327 "(12) Persons engaged in the practice of a specialty as an employee of the Division of  
 2328 Family and Children Services of the Department of Human ~~Resources~~ Services but only  
 2329 when engaged in such practice as an employee of that division;"

2330 **SECTION 1-48.**

2331 Code Section 43-27-2 of the Official Code of Georgia Annotated, relating to the creation of  
 2332 the State Board of Nursing Home Administrators, is amended as follows:

2333 "43-27-2.

2334 (a) There is created the State Board of Nursing Home Administrators, which shall consist  
 2335 of 13 members, none of whom may be employees of the United States government or of  
 2336 this state, and the commissioner of human ~~resources~~ services or his or her designee, who  
 2337 shall serve as ex officio member of the board, and the commissioner of ~~community~~ health

2338 or his or her designee, who shall serve as ex officio member of the board. The members  
 2339 of the board shall be appointed by the Governor and confirmed by the Senate, as follows:

2340 (1) One member who is a licensed medical doctor in this state and who is not a nursing  
 2341 home administrator or pecuniarily interested in any nursing home;

2342 (2) One member who is a registered nurse in this state and who is not a nursing home  
 2343 administrator or pecuniarily interested in any nursing home;

2344 (3) One member who is an educator with a graduate degree and specializing in the field  
 2345 of gerontology and who is not a nursing home administrator or pecuniarily interested in  
 2346 any nursing home;

2347 (4) Three members of the public at large who are not nursing home administrators or  
 2348 pecuniarily interested in any nursing home or have any connection with the nursing home  
 2349 industry whatsoever. Two of these three ~~public-at-large~~ public, at-large positions shall  
 2350 be appointed from a list of three persons for each of these two positions submitted by the  
 2351 State Board of Human Resources Health. The Governor is vested with complete  
 2352 discretion in appointing the third member for one of these three ~~public-at-large~~ public,  
 2353 at-large positions;

2354 (5) One member who is a hospital administrator in this state, who is the holder of a  
 2355 master's degree in hospital administration, and who is not a nursing home administrator  
 2356 or pecuniarily interested in any nursing home; and

2357 (6) Six members, at least one of whom shall represent nonproprietary nursing homes,  
 2358 who are licensed nursing home administrators in this state.

2359 (b) The term for all members shall be three years from the date of appointment. A member  
 2360 may be removed as provided in Code Section 43-1-17. All vacancies shall be filled by the  
 2361 Governor for the unexpired terms in accordance with the requirements for appointment to  
 2362 the vacant position."

#### 2363 SECTION 1-49.

2364 Code Section 43-27-5 of the Official Code of Georgia Annotated, relating to general powers  
 2365 and duties of the State Board of Nursing Home Administrators, is amended by revising  
 2366 paragraph (4) of subsection (a) as follows:

2367 "(4) To initiate investigations for the purpose of discovering violations by a nursing home  
 2368 administrator of the rules, regulations, or statutes of the Department of ~~Community~~ Health  
 2369 or the Department of Human ~~Resources~~ Services, provided that the board shall investigate  
 2370 those violations only after revocation, limitation, or restriction of participation of the  
 2371 nursing home of which such individual is the administrator in the medical assistance  
 2372 program or the license issued by the Department of ~~Human Resources~~ Health and make  
 2373 written findings as to the causes of the alleged violations;"

2374 **SECTION 1-50.**

2375 Code Section 45-9-1 of the Official Code of Georgia Annotated, relating to general  
 2376 provisions relative to insuring and indemnification of state officers and employees, is  
 2377 amended by revising subsection (c) as follows:

2378 "(c) For the purpose of this article, the term 'agency' shall specifically include, but shall not  
 2379 be limited to, public retirement systems of state-wide application established by the laws  
 2380 of this state, but shall not include counties or municipalities; provided, however, that the  
 2381 employees of community service boards, county departments of health, and county  
 2382 departments of family and children services as well as the members of the boards of said  
 2383 departments shall be considered to be state employees or officials for the purpose of this  
 2384 article. In order to facilitate the administration of liability coverage or other insurance  
 2385 coverages provided the community service boards, ~~county departments of health, and~~  
 2386 ~~county departments of family and children services,~~ the Department of Human Resources  
 2387 Behavioral Health ~~must shall~~ designate a central office which ~~will shall~~ be responsible for  
 2388 obtaining, submitting, and collecting all underwriting information and insurance premiums  
 2389 requested and assessed by the Department of Administrative Services. In order to facilitate  
 2390 the administration of liability coverage or other insurance coverages provided county  
 2391 departments of family and children services, the Department of Human Services shall  
 2392 designate a central office which shall be responsible for obtaining, submitting, and  
 2393 collecting all underwriting information and insurance premiums requested and assessed by  
 2394 the Department of Administrative Services. In order to facilitate the administration of  
 2395 liability coverage or other insurance coverages provided county departments of health, the  
 2396 Department of Health shall designate a central office which shall be responsible for  
 2397 obtaining, submitting, and collecting all underwriting information and insurance premiums  
 2398 requested and assessed by the Department of Administrative Services."

2399 **SECTION 1-51.**

2400 Code Section 45-9-110 of the Official Code of Georgia Annotated, relating to authorization  
 2401 for consolidation of unemployment compensation claim matters under the commissioner of  
 2402 administrative services, is amended by revising subsection (d) as follows:

2403 "(d) The commissioner of administrative services shall have the authority to provide  
 2404 unemployment compensation benefits insurance to all of the county departments of health,  
 2405 county departments of family and children services, and community service boards. The  
 2406 commissioner of ~~human resources~~ health shall establish a procedure to provide the  
 2407 Department of Administrative Services all of the underwriting information required,  
 2408 including but not limited to payroll data each quarter for the service centers, and shall  
 2409 collect the unemployment premium from ~~such boards and departments~~ county departments

2410 of health and remit the premium to the Department of Administrative Services. The  
 2411 commissioner of human services shall establish a procedure to provide the Department of  
 2412 Administrative Services all of the underwriting information required, including but not  
 2413 limited to payroll data each quarter for the service centers, and shall collect the  
 2414 unemployment premium from county departments of family and children services and  
 2415 remit the premium to the Department of Administrative Services. The commissioner of  
 2416 behavioral health shall establish a procedure to provide the Department of Administrative  
 2417 Services all of the underwriting information required, including but not limited to payroll  
 2418 data each quarter for the service centers, and shall collect the unemployment premium from  
 2419 community service boards and remit the premium to the Department of Administrative  
 2420 Services. All of the county departments of health, county departments of family and  
 2421 children services, and community service boards shall participate in such unemployment  
 2422 compensation benefit insurance program."

2423 **SECTION 1-52.**

2424 Code Section 46-4-154 of the Official Code of Georgia Annotated, relating to notice of  
 2425 election, unbundling, rates, application requirements, and surcharge on interruptibles under  
 2426 the "Natural Gas Competition and Deregulation Act," is amended by revising subsection (e)  
 2427 as follows:

2428 "(e) The commission shall establish a surcharge on all customers receiving interruptible  
 2429 service over the electing distribution company's distribution system sufficient to ensure that  
 2430 such customers will pay an equitable share of the cost of the distribution system over which  
 2431 such customers receive service. The commission is authorized to direct the electing  
 2432 distribution company or the marketers to collect such surcharge directly from the  
 2433 customers. Such surcharge shall be paid promptly upon receipt into the universal service  
 2434 fund. This surcharge shall not be applied to any hospital that has a medicare and Medicaid  
 2435 payor mix of at least 30 percent and has uncompensated writeoffs for the provision of  
 2436 charity, indigent, and free health care services of not less than 5 percent of such hospital's  
 2437 annual operating expenses based on the annual hospital surveys by ~~the Division of Health~~  
 2438 ~~Planning~~ of the Department of Community Health. This surcharge shall not be applied to  
 2439 any institution or property enumerated in Code Section 50-16-3, or administered or  
 2440 regulated under authority granted by Code Section 42-2-5 or 49-4A-6 or by Chapter 9 of  
 2441 Title 50."

2442 **SECTION 1-53.**

2443 Code Section 49-4-142 of the Official Code of Georgia Annotated, relating to adoption and  
 2444 administration of a state plan for medical assistance by the Department of Community  
 2445 Health, is amended by revising subsection (b) as follows:

2446 "(b) The department shall, not later than June 1, 1986, implement a modification of the  
 2447 state plan for medical assistance or any affected rules or regulations of the department,  
 2448 which modification will allow supplementation by relatives or other persons for a private  
 2449 room or private sitter or both for a recipient of medical assistance in a nursing home. ~~The~~  
 2450 ~~Department of Human Resources shall likewise modify any affected rules and regulations~~  
 2451 ~~of the Department of Human Resources.~~ The modification to the plan or to any affected  
 2452 rules and regulations shall be effective unless and until federal authorities rule that such  
 2453 modification is out of compliance with federal regulations. Such modification of the state  
 2454 plan for medical assistance or rules and regulations:

2455 (1) Shall provide that a provider of nursing home services in either a skilled care facility  
 2456 or an intermediate care facility shall be obligated to provide a recipient of medical  
 2457 assistance only semiprivate accommodations which meet the other requirements of  
 2458 appropriate regulations;

2459 (2) Shall provide that at no time can more than 10 percent of a skilled care or  
 2460 intermediate care facility's rooms be used for Medicaid recipients for whom a private  
 2461 room supplementation has been made;

2462 (3) Shall provide that payments made by relatives or other persons to a provider of  
 2463 medical assistance for the specific stated purpose of paying the additional costs for a  
 2464 private room or private sitter or both for a recipient of medical assistance in a skilled care  
 2465 facility or intermediate care facility shall not be considered as income when determining  
 2466 the amount of patient liability toward vendor payments; provided, however, that the  
 2467 department's entitlement to payments made by legally liable third parties shall not be  
 2468 diminished by this modification of the state plan;

2469 (4) Shall provide that no provider of medical assistance shall discriminate against a  
 2470 recipient of medical assistance who does not have a relative or other person who is  
 2471 willing and able to provide supplementation; but the provision of a private room or  
 2472 private sitter to a recipient when supplementation is provided shall not constitute  
 2473 discrimination against other recipients;

2474 (5) Shall provide that no recipient who is transferred to or admitted to a private room  
 2475 because of a shortage of beds in semiprivate rooms shall be discharged because the  
 2476 recipient does not have a relative or other person who is willing and able to provide  
 2477 supplementation; and

2478 (6) May provide that the rate charged by the provider of medical assistance to the relative  
 2479 or other person providing supplementation for a private room for a recipient shall not  
 2480 exceed the difference between the maximum rate charged by the provider for a private  
 2481 room to or for a private pay patient and the amount which the provider receives or will  
 2482 receive from the department as reimbursement for otherwise providing for the recipient's  
 2483 care in a semiprivate room."

2484 **SECTION 1-54.**

2485 Code Section 49-4-153 of the Official Code of Georgia Annotated, relating to administrative  
 2486 hearings and appeals under Medicaid, is amended by revising subsection (d) as follows:

2487 "(d) All contested cases involving the imposition of a remedial or punitive measure against  
 2488 a nursing facility by the Department of ~~Community~~ Health shall be conducted in the  
 2489 manner provided for in subsection (l) of Code Section ~~31-2-6~~ 31-2-11, but only if such  
 2490 remedial or punitive measure is based upon findings made by the Department of ~~Human~~  
 2491 ~~Resources-Health~~ Health in its capacity as the state survey agency for the Georgia Medicaid  
 2492 program."

2493  
 2494 **SECTION 1-55.**

2495 Code Section 49-4-154 of the Official Code of Georgia Annotated, relating to powers and  
 2496 duties retained by the Department of Human Resources with respect to Medicaid, is amended  
 2497 as follows:

2498 "49-4-154.

2499 (a) The status, position, and rights of persons transferred from the Department of Human  
 2500 Resources (now known as the Department of Health for these purposes) to the Department  
 2501 of Medical Assistance pursuant to Ga. L. 1977, p. 384 shall not be affected by the transfer,  
 2502 in and of itself; and such persons shall retain, inter alia, all rights of rank or grade; rights  
 2503 to vacation, sick pay, and leave; rights under any retirement plan; and any other rights  
 2504 under any law or administrative policy.

2505 (b) The Department of Human Resources (now known as the Department of Health for  
 2506 these purposes) shall retain, in accordance with terms of the state plan, the functions, and  
 2507 all tangible things and employees relating thereto, of:

2508 (1) Establishing and maintaining certain standards for certain institutions and agencies  
 2509 seeking to become or remain providers and shall finally determine and certify whether  
 2510 such institutions and agencies meet such standards;

2511 (2) Determining and certifying the eligibility of certain applicants for and recipients of  
 2512 medical assistance; and

2513 (3) Prescribing regulations to require that applicants for medical assistance be given clear  
 2514 and easily understandable notice that all books, papers, records, and memoranda of the  
 2515 provider relating to the provision of medical assistance to the applicant will be made  
 2516 available, upon request, to the commissioner of medical assistance or his representative  
 2517 and that, by accepting medical assistance, the applicant thereby consents to the providing  
 2518 of such books, papers, records, and memoranda to the commissioner of medical  
 2519 assistance or his representative."

2520 **SECTION 1-56.**

2521 Code Section 49-4-155 of the Official Code of Georgia Annotated, relating to the  
 2522 Department of Community Health succeeding to existing rules, regulations, policies,  
 2523 procedures, and administrative orders with respect to Medicaid, is amended as follows:

2524 "49-4-155.

2525 The Department of Community Health (now known as the Department of Health) shall  
 2526 succeed to all the rules, regulations, policies, procedures, and administrative orders of the  
 2527 Department of Human Resources (now known as the Department of Human Services)  
 2528 transferred to the Department of Medical Assistance pursuant to the previously existing  
 2529 provisions of this Code section and that are in effect on June 30, 1999, and shall further  
 2530 succeed to any rights, privileges, entitlements, obligations, and duties of the Department  
 2531 of Human Resources (now known as the Department of Human Services) that are in effect  
 2532 on June 30, 1999, to which the Department of Medical Assistance succeeded pursuant to  
 2533 the previously existing provisions of Code Section 49-4-156."

2534 **SECTION 1-57.**

2535 Code Section 50-13-42 of the Official Code of Georgia Annotated, relating to applicability  
 2536 of the "Georgia Administrative Procedure Act," is amended by revising subsection (a) as  
 2537 follows:

2538 "(a) In addition to those agencies expressly exempted from the operation of this chapter  
 2539 under paragraph (1) of Code Section 50-13-2, this article shall not apply to the  
 2540 Commissioner of Agriculture, the Public Service Commission, the ~~Health Planning Review~~  
 2541 ~~Board~~ Certificate of Need Appeal Panel, or the Department of ~~Community~~ Health or to the  
 2542 Department of Labor with respect to unemployment insurance benefit hearings conducted  
 2543 under the authority of Chapter 8 of Title 34. Such exclusion does not prohibit such office  
 2544 or agencies from contracting with the Office of State Administrative Hearings on a  
 2545 case-by-case basis."



2546 **SECTION 1-58.**

2547 Code Section 50-16-3 of the Official Code of Georgia Annotated, relating to property of state  
2548 boards and departments, is amended by revising paragraph (2) as follows:

2549 "(2) The several institutions operated by the Department of Human ~~Resources~~ Services,  
2550 the Department of Health, or the Department of Behavioral Health, including all real and  
2551 personal property belonging to the several institutions or used in connection therewith,  
2552 and all other property conveyed to ~~the~~ any such department for the use of any of the  
2553 institutions or conveyed to any of the boards of trustees of which ~~the~~ such department is  
2554 the successor or to any of the institutions under its control;"

2555 **PART II**

2556 Department of Human Services.

2557 **SECTION 2-1.**

2558 Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended  
2559 by revising Chapters 1 and 2, relating to general provisions on social services and the  
2560 Department of Human Resources, respectively, as follows:

2561 "CHAPTER 1

2562 49-1-1.

2563 As used in this title, the term:

2564 (1) 'Board' means the Board of Human ~~Resources~~ Services.

2565 (2) 'Commissioner' means the commissioner of human ~~resources~~ services.

2566 (3) 'County board' means a county or district board of family and children services.

2567 (4) 'County department' means a county or district department of family and children  
2568 services.

2569 (5) 'County director' means the director of a county or district department of family and  
2570 children services.

2571 (6) 'Department' means the Department of Human ~~Resources~~ Services.

2572 49-1-2.

2573 All rules and regulations made by the Department of Human ~~Resources~~ Services shall be  
2574 binding on the counties and shall be complied with by the respective county departments.

2575 49-1-3.

2576 ~~(a) Notwithstanding any other provisions of law, the Governor shall have the power by~~  
 2577 ~~executive order to direct and implement such internal organization of the Department of~~  
 2578 ~~Human Resources as he may determine necessary to improve the management and~~  
 2579 ~~administration of the functions vested in the department, including the power to allocate~~  
 2580 ~~within such organization the executive authority described in Code Section 49-2-1 with~~  
 2581 ~~respect to any or any grouping of the functions of the department. For these purposes, the~~  
 2582 ~~Governor shall have the power by executive order to redefine the department's substate~~  
 2583 ~~structure and to direct the establishment of district health and welfare organizations, as~~  
 2584 ~~respectively described and with such powers and duties as set forth in Code Sections~~  
 2585 ~~31-3-15 and 49-3-1. The district director of a health district shall be a licensed physician.~~  
 2586 ~~The district director and other executive staff of district health and welfare organizations~~  
 2587 ~~shall hereafter be appointed by the department, provided that the department shall not~~  
 2588 ~~appoint as a director of any such organization any person whose appointment is not~~  
 2589 ~~approved by a majority of the respective district board concerned in a meeting of such~~  
 2590 ~~board called for that purpose.~~

2591 ~~(b) Any other provisions of this Code section to the contrary notwithstanding, any such~~  
 2592 ~~reorganization plan shall provide for a county department of family and children services,~~  
 2593 ~~a county board of family and children services, and a county director of family and children~~  
 2594 ~~services in each county of this state. The county director shall be the executive officer of~~  
 2595 ~~the county department who shall be responsible for operations and personnel. In addition~~  
 2596 ~~to such other powers and authorities which may be delegated to county departments of~~  
 2597 ~~family and children services, each county board and director of family and children~~  
 2598 ~~services shall have the same powers, duties, and bond requirements as provided in Code~~  
 2599 ~~Sections 49-3-2 through 49-3-5.~~

2600 ~~(c) Notwithstanding any other provision of this Code section, the Governor shall not have~~  
 2601 ~~the power by executive order to abolish any county board.~~

2602 ~~(d) The Governor's power under this Code section shall expire on December 31, 1976, but~~  
 2603 ~~the organization accomplished by executive order hereunder shall continue until altered in~~  
 2604 ~~the manner provided by law. Reserved.~~

2605 49-1-4.

2606 No individual, supervisor, or member of the Board of Human Resources Services or the  
 2607 county or district boards of family and children services having to do with the  
 2608 administration of this title shall be authorized or permitted, directly or indirectly, to sell  
 2609 supplies or other items of any kind or character to any of the institutions to be benefited by  
 2610 this title.

2611 49-1-5.

2612 (a) In order that the public welfare laws of this state may be better enforced, the Governor  
2613 is authorized and empowered to suspend any member of any county board, any county  
2614 director, or any employee or official of the department whenever he or she shall find that  
2615 good cause for such suspension exists. Such suspension shall be by executive order of the  
2616 Governor, which shall state the reason therefor. A copy of such order of suspension shall  
2617 be sent to the person so suspended within five days after it is issued, by registered or  
2618 certified mail or statutory overnight delivery, return receipt requested, together with a  
2619 notice from the Governor or his or her executive secretary that the suspended person may  
2620 be heard before the Governor at such time as may be stated in the notice, which hearing  
2621 shall be not less than ten nor more than 20 days from the date of the notice. Upon such  
2622 hearing, if the Governor shall find that good cause for the removal of the person so  
2623 suspended exists, he or she is authorized and empowered to remove such member of any  
2624 county board, any county director, or any employee or official in the department;  
2625 whereupon, such person's tenure of office or employment shall terminate, subject to the  
2626 right of appeal granted to any employee under the State Merit System of Personnel  
2627 Administration by Chapter 20 of Title 45, and the vacancy shall be filled as provided by  
2628 law. If the Governor shall find that good cause for the removal of such person does not  
2629 exist, he or she shall, by appropriate executive order, restore him or her to duty.

2630 (b) In addition to removal by the Governor as specified in subsection (a) of this Code  
2631 section, the director of the Division of Family and Children Services may terminate the  
2632 employment of any county director or district director subject to any right of appeal such  
2633 director may have under the State Merit System of Personnel Administration by Chapter  
2634 20 of Title 45, and the vacancy shall be filled as provided by law.

2635 49-1-6.

2636 (a) Any charitable or nonprofit corporation which has been granted a charter or articles of  
2637 incorporation under the laws of this state may transfer all or a part of its assets to the  
2638 department upon such terms as may be agreed upon between such corporation and the  
2639 department, provided such corporation shall first have obtained authority to make such  
2640 transfer in accordance with this Code section.

2641 (b) Any such corporation may apply for authority to make such transfer by filing its  
2642 petition with the superior court of the county in which such corporation has its principal  
2643 office. Such application shall set forth the assets which the corporation desires to transfer  
2644 to the department and the terms upon which it desires to transfer these assets.

2645 (c) Such corporation, once a week for four weeks prior to the filing of such petition, shall  
2646 publish notice in the newspaper of the county in which is located the principal office of the

2647 corporation, such newspaper being the newspaper in which notices of sheriff's sales are  
 2648 advertised. The notice shall set forth the date, time, and place when such application will  
 2649 be presented, the court to which it will be presented, and the assets which such corporation  
 2650 desires to transfer to the department.

2651 (d) After a hearing, the court shall be authorized to grant the application and permit a  
 2652 transfer of the assets of the applicant upon terms as set out in the application or modified  
 2653 as the court may deem advisable, if the court considers this in the public interest; or the  
 2654 court may deny the application if the court deems such denial to be in the public interest.  
 2655 Where such corporation makes a transfer of all of its right, title, and interest in any of its  
 2656 assets to the department and such transfer is made pursuant to the authority of the court  
 2657 obtained in the manner provided for in this Code section, such transfer shall be  
 2658 conclusively deemed to be a proper and legal transfer.

2659 (e) Should such corporation desire to transfer all of its assets to the department, the court  
 2660 to which such application is presented may include in its order a provision that upon the  
 2661 transfer by such corporation of all of its assets to the department and upon compliance with  
 2662 Chapter 3 of Title 14, the charter or articles of incorporation of such corporation shall stand  
 2663 surrendered and the corporation dissolved.

2664 (f) Nothing contained in this Code section shall be considered as authorizing the  
 2665 department to accept a transfer of assets upon terms which would require the use of them  
 2666 by the department in a manner not authorized by law.

2667 ~~49-1-7.~~

2668 ~~The department is authorized to purchase land or lands adjacent to or near lands now under~~  
 2669 ~~the control of the department where, in the opinion of the department, the land is needed~~  
 2670 ~~for the benefit of one of the institutions under its control and management, to pay for such~~  
 2671 ~~land out of any funds which may be available for such purpose, and to take title to land so~~  
 2672 ~~purchased in the name of the State of Georgia for the use of the department.~~

2673 ~~49-1-8.~~

2674 ~~(a) The department shall sell, to the best advantage, all surplus products of the Central~~  
 2675 ~~State Hospital or other institutions under the control and supervision of the department and~~  
 2676 ~~shall apply the proceeds thereof to the maintenance of the institution from which such~~  
 2677 ~~surplus products are received. Should any surplus funds arise from this source, they shall~~  
 2678 ~~be paid into the state treasury annually; and the department shall, at the end of each quarter,~~  
 2679 ~~make a detailed report of all such transactions to the Governor.~~

2680 ~~(b) It is not the intention of this Code section to encourage competition in any way by the~~  
 2681 ~~state, its institutions, agencies, departments or branches, or other subdivisions with the~~

2682 ~~individual, private farmers of this state, or others, in the production and sale of agricultural~~  
 2683 ~~or industrial commodities or products in due course of commerce.~~

2684 ~~49-1-9~~ 49-1-7.

2685 (a) The General Assembly finds that it is in the best interest of the state to provide for  
 2686 programs for home delivered meals, transportation services for the elderly, and preschool  
 2687 children with special needs, including but not limited to disabled children, troubled  
 2688 children, school readiness programs, and other similar needs for the benefit of the citizens  
 2689 of Georgia. In addition to and as a supplement to traditional financing mechanisms for  
 2690 such programs, it is the policy of this state to enable and encourage citizens voluntarily to  
 2691 support such programs.

2692 (b) To support programs for home delivered meals, transportation services for the elderly,  
 2693 and preschool children with special needs which programs have been established or  
 2694 approved by the department or the Department of Health, the department may, without  
 2695 limitation, promote and solicit voluntary contributions through the income tax return  
 2696 contribution mechanism established in subsection (f) of this Code section, through offers  
 2697 to match contributions by any person with moneys appropriated or contributed to the  
 2698 department or the Department of Health for such programs, or through any fund raising or  
 2699 other promotional techniques deemed appropriate by the department or the Department of  
 2700 Health.

2701 (c) There is established a special fund to be known as the 'Home Delivered Meals,  
 2702 Transportation Services for the Elderly, and Preschool Children with Special Needs Fund.'  
 2703 This fund shall consist of all moneys contributed under subsection (b) of this Code section,  
 2704 all moneys transferred to the department under subsection (f) of this Code section, and any  
 2705 other moneys contributed to this fund or to the home delivered meals, transportation  
 2706 services for the elderly, or preschool children with special needs programs of the  
 2707 department or the Department of Health and all interest thereon. All balances in the fund  
 2708 shall be deposited in an interest-bearing account identifying the fund and shall be carried  
 2709 forward each year so that no part thereof may be deposited in the general treasury. The  
 2710 fund shall be administered and the moneys held in the fund shall be expended by the  
 2711 department through the ~~Office~~ Division of Aging Services in furtherance of home delivered  
 2712 meals and transportation services to the elderly programs and by the ~~department~~  
 2713 Department of Health in furtherance of preschool children with special needs programs.

2714 (d) Following the transmittal of contributions to the department for deposit in the fund  
 2715 pursuant to subsection (f) of this Code section, the expenditure of moneys in the fund shall  
 2716 be allocated as follows:

2717 (1) Fifty percent of the contributions to the fund shall be used for home delivered meals  
 2718 and transportation services to the elderly programs; and

2719 (2) Fifty percent of the contributions to the fund shall be transferred to the Department  
 2720 of Health to be used for preschool children with special needs programs.

2721 (e) Contributions to the fund shall be deemed supplemental to and shall in no way supplant  
 2722 funding that would otherwise be appropriated for these purposes. Contributions shall only  
 2723 be used for benefits and services and shall not be used for personnel or administrative  
 2724 positions. The department and the Department of Health shall each prepare, by February  
 2725 1 of each year, an accounting of the funds received and expended from the fund and a  
 2726 review and evaluation of all expended moneys of the fund. The ~~report~~ reports shall be  
 2727 made available to the Governor, the Lieutenant Governor, the Speaker of the House of  
 2728 Representatives, to the members of the Board of Human ~~Resources~~ Services, and, upon  
 2729 request, to members of the public.

2730 (f)(1) Unless an earlier date is deemed feasible and established by the Governor, each  
 2731 Georgia income tax return form for taxable years beginning on or after January 1, 1993,  
 2732 shall contain appropriate language, to be determined by the state revenue commissioner,  
 2733 offering the taxpayer the opportunity to contribute to the Home Delivered Meals,  
 2734 Transportation Services for the Elderly, and Preschool Children with Special Needs Fund  
 2735 established in subsection (c) of this Code section by either donating all or any part of any  
 2736 tax refund due, by authorizing a reduction in the refund check otherwise payable, or by  
 2737 contributing any amount over and above any amount of tax owed by adding that amount  
 2738 to the taxpayer's payment. The instructions accompanying the income tax return form  
 2739 shall contain a description of the purposes for which this fund was established and the  
 2740 intended use of moneys received from the contributions. Each taxpayer required to file  
 2741 a state income tax return who desires to contribute to such fund may designate such  
 2742 contribution as provided in this Code section on the appropriate income tax return form.

2743 (2) The Department of Revenue shall determine annually the total amount so contributed,  
 2744 shall withhold therefrom a reasonable amount for administering this voluntary  
 2745 contribution program, and shall transmit the balance to the department for deposit in the  
 2746 fund established in subsection (c) of this Code section; provided, however, the amount  
 2747 retained for administrative costs, including implementation costs, shall not exceed  
 2748 \$50,000.00 per year. If, in any tax year, the administrative costs of the Department of  
 2749 Revenue for collecting contributions pursuant to this Code section exceed the sum of  
 2750 such contributions, the administrative costs which the Department of Revenue is  
 2751 authorized to withhold from such contributions shall not exceed the sum of such  
 2752 contributions.

## CHAPTER 2

## ARTICLE 1

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49-2-1.

(a) There is created a Department of Human Resources Services. The powers, functions, and duties of the Department of Human Resources as they existed on June 30, 2009, except for those relating to the Division of Mental Health, Developmental Disabilities, and Addictive Diseases, the Division of Public Health, and the Office of Regulatory Services, unless specifically transferred or reassigned to the Department of Health or the Department of Behavioral Health, are transferred to the Department of Human Services effective July 1, 2009, and the Department of Human Resources shall be reconstituted as the Department of Human Services effective July 1, 2009.

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

49-2-2.

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

2788 (b) The Governor shall designate the initial terms of the members of the board as follows:  
 2789 three members shall be appointed for one year; three members shall be appointed for two  
 2790 years; and three members shall be appointed for three years; ~~three members shall be~~  
 2791 appointed for four years; and the remaining members shall be appointed for five years.  
 2792 Thereafter, all succeeding appointments shall be for ~~five-year~~ three-year terms from the  
 2793 expiration of the previous term.

2794 (c) Vacancies in office shall be filled by appointment by the Governor in the same manner  
 2795 as the appointment to the position on the board which becomes vacant, and the appointment  
 2796 shall be submitted to the Senate for confirmation at the next session of the General  
 2797 Assembly. An appointment to fill a vacancy, other than by expiration of a term of office,  
 2798 shall be for the balance of the unexpired term.

2799 (d) Members of the board may be removed from office under the same conditions for  
 2800 removal from office of members of professional licensing boards provided in Code Section  
 2801 43-1-17.

2802 ~~(d)~~(e) There shall be a ~~chairman~~ chairperson of the board, elected by and from the  
 2803 membership of the board, who shall be the presiding officer of the board.

2804 ~~(e) Those members engaged in rendering health services shall comprise no more than~~  
 2805 ~~seven members of the total membership of the board.~~

2806 (f) The members of the board shall receive per diem and expenses as shall be set and  
 2807 approved by the Office of Planning and Budget and in conformance with rates and  
 2808 allowances set for members of other state boards.

2809 49-2-2.1.

2810 (a) The Department of Human Services shall succeed to all rules, regulations, policies,  
 2811 procedures, and administrative orders of the Department of Human Resources that are in  
 2812 effect on June 30, 2009, or scheduled to go into effect on or after July 1, 2009, and which  
 2813 relate to the functions transferred to the Department of Human Services pursuant to Code  
 2814 Section 49-2-1 and shall further succeed to any rights, privileges, entitlements, obligations,  
 2815 and duties of the Department of Human Resources that are in effect on June 30, 2009,  
 2816 which relate to the functions transferred to the Department of Human Services pursuant to  
 2817 Code Section 49-2-1. Such rules, regulations, policies, procedures, and administrative  
 2818 orders shall remain in effect until amended, repealed, superseded, or nullified by the  
 2819 Department of Human Services by proper authority or as otherwise provided by law.

2820 (b) The rights, privileges, entitlements, and duties of parties to contracts, leases,  
 2821 agreements, and other transactions entered into before July 1, 2009, by the Department of  
 2822 Human Resources which relate to the functions transferred to the Department of Human  
 2823 Services pursuant to Code Section 49-2-1 shall continue to exist; and none of these rights,



2824 privileges, entitlements, and duties are impaired or diminished by reason of the transfer of  
 2825 the functions to the Department of Human Services. In all such instances, the Department  
 2826 of Human Services shall be substituted for the Department of Human Resources, and the  
 2827 Department of Human Services shall succeed to the rights and duties under such contracts,  
 2828 leases, agreements, and other transactions.

2829 (c) All persons employed by the Department of Human Resources in capacities which  
 2830 relate to the functions transferred to the Department of Human Services pursuant to Code  
 2831 Section 49-2-1 on June 30, 2009, shall, on July 1, 2009, become employees of the  
 2832 Department of Human Services in similar capacities, as determined by the commissioner  
 2833 of human services. Such employees shall be subject to the employment practices and  
 2834 policies of the Department of Human Services on and after July 1, 2009, but the  
 2835 compensation and benefits of such transferred employees shall not be reduced as a result  
 2836 of such transfer. Employees who are subject to the rules of the State Personnel Board and  
 2837 thereby under the State Merit System of Personnel Administration and who are transferred  
 2838 to the department shall retain all existing rights under the State Merit System of Personnel  
 2839 Administration. Retirement rights of such transferred employees existing under the  
 2840 Employees' Retirement System of Georgia or other public retirement systems on June 30,  
 2841 2009, shall not be impaired or interrupted by the transfer of such employees and  
 2842 membership in any such retirement system shall continue in the same status possessed by  
 2843 the transferred employees on June 30, 2009. Accrued annual and sick leave possessed by  
 2844 said employees on June 30, 2009, shall be retained by said employees as employees of the  
 2845 Department of Human Services.

2846 (d) On July 1, 2009, the Department of Human Services shall receive custody of the state  
 2847 owned real property in the custody of the Department of Human Resources on June 30,  
 2848 2009, and which pertains to the functions transferred to the Department of Human Services  
 2849 pursuant to Code Section 49-2-1.

2850 49-2-3.

2851 (a) ~~Reserved.~~

2852 (b) The policy-making functions of the State Board for Children and Youth, contained in  
 2853 Ga. L. 1963, p. 81, are vested in the Board of Human ~~Resources~~ Services.

2854 (c)(b) The policy-making functions of the Commission on Aging, created in Ga. L. 1962,  
 2855 p. 604, are vested in the Board of Human ~~Resources~~ Services.

2856 49-2-4.

2857 There shall be created in the department such divisions as may be found necessary for its  
2858 effective operation. The commissioner shall have the power to allocate and reallocate  
2859 functions among the divisions within the department.

2860 49-2-5.

2861 The department is declared to be an institution of the state for which the powers of taxation  
2862 over the whole state may be exercised, and the department is empowered and authorized  
2863 to administer, expend, and disburse funds appropriated to it and allocated to it by the  
2864 General Assembly, the respective counties of the state, and the United States, through its  
2865 appropriate agencies and instrumentalities for the purpose of distributing old-age benefits  
2866 and all other benefits as provided in this title.

2867 49-2-6.

2868 (a) The department shall administer or supervise all county departments of the state as  
2869 provided in Chapter 3 of this title.

2870 (b) The department shall:

2871 (1) Administer or supervise:

2872 (A) All categories of public assistance established under Code Section 49-4-3;

2873 (B) The operation of state charitable and eleemosynary institutions;

2874 (C) Agencies and institutions caring for dependent or mentally or physically disabled  
2875 or aged adults; and

2876 (D) Such other welfare activities or services as may be vested in it;

2877 ~~(2) Cooperate in the supervision of all correctional activities, including the operation of~~  
2878 ~~all the penal and correctional institutions of the state, together with parole, supervising~~  
2879 ~~of probation services, segregation of first offenders, and the inspection of local jails;~~

2880 ~~(3)~~ Provide services to county governments, including the organization and supervision  
2881 of county departments for the effective administration of welfare functions and the  
2882 compilation of statistics and necessary information relative to public welfare problems  
2883 throughout the state;

2884 ~~(4)~~(3) Prescribe qualifications and salary standards for welfare personnel in state and  
2885 county departments, subject to Chapter 20 of Title 45;

2886 ~~(5)~~(4) Assist other state and federal departments, agencies, and institutions, when so  
2887 requested, by performing services in conformity with the purposes of this title;

2888 ~~(6)~~(5) Act as the agent of the federal government in welfare matters of mutual concern  
2889 in conformity with this title and the administration of any federal funds granted to the  
2890 state to aid in the furtherance of any functions of the department;

2891 ~~(7)~~(6) Under rules and regulations prescribed by the board, designate county and district  
 2892 departments to serve as agents in the performance of all state welfare activities in the  
 2893 counties or districts;

2894 ~~(8)~~(7) Have the right to designate private institutions as state institutions; to contract with  
 2895 such private institutions for such activities, in carrying out this title, as the department  
 2896 may deem necessary from time to time; and to exercise such supervision and cooperation  
 2897 in the operation of such designated private institutions as the department may deem  
 2898 necessary;

2899 ~~(9)~~(8) Have the right to accept and execute gifts or donations for welfare purposes, as  
 2900 may be prescribed by the donors thereof;

2901 ~~(10)~~(9) Have authority to delegate in whole or in part the operation of any institution or  
 2902 other activity of the department to any other appropriate department or agency of the  
 2903 state, county, or municipal governments; and to contract with and cooperate with such  
 2904 departments or subdivisions in any manner proper for carrying out the purposes of this  
 2905 title;

2906 ~~(11) Make provision for meeting the cost of hospital care of persons eligible for public  
 2907 assistance to the extent that federal matching funds are available for such expenditures  
 2908 for hospital care. To accomplish this purpose, the department is authorized to pay from  
 2909 funds appropriated for the purposes of this title the amount required under this paragraph  
 2910 into a trust fund account which shall be available for disbursement for the cost of hospital  
 2911 care of public assistance recipients. The commissioner, subject to the approval of the  
 2912 Office of Planning and Budget, on the basis of the funds appropriated in any year, shall  
 2913 estimate the scope of hospital care available to public assistance recipients and the  
 2914 approximate per capita cost of such care. Monthly payments into the trust fund for  
 2915 hospital care shall be made on behalf of each public assistance recipient and such  
 2916 payments shall be deemed encumbered for assistance payable. Ledger accounts  
 2917 reflecting payments into and out of the hospital care fund shall be maintained for each of  
 2918 the categories of public assistance established under Code Section 49-4-3. The balance  
 2919 of state funds in such trust fund for the payment of hospital costs in an amount not to  
 2920 exceed the amount of federal funds held in the trust fund by the department available for  
 2921 expenditure under this paragraph shall be deemed encumbered and held in trust for the  
 2922 payment of the costs of hospital care and shall be rebudgeted for this purpose on each  
 2923 quarterly budget required under the laws governing the expenditure of state funds. The  
 2924 state auditor shall audit the funds in the trust fund established under this paragraph in the  
 2925 same manner that any other funds disbursed by the department are audited; and~~

2926 ~~(12)~~(10) Administer such programs and provide such services as may be appropriate and  
 2927 necessary to strengthen family life and help needy individuals attain the maximum

2928 economic and personal independence of which they are capable, including services to  
2929 applicants and recipients of old-age assistance to help them attain self-care, provided that  
2930 the costs incurred by the county departments in administering this Code section in  
2931 conjunction with the public assistance programs administered by the department shall be  
2932 deemed to be administrative expenses;

2933 (11) Classify and license community living arrangements in accordance with the rules  
2934 and regulations promulgated by the department for the licensing and enforcement of  
2935 licensing requirements for persons whose services are financially supported, in whole or  
2936 in part, by funds authorized through the department. To be eligible for licensing as a  
2937 community living arrangement, the residence and services provided must be integrated  
2938 within the local community. All community living arrangements licensed by the  
2939 department shall be subject to the provisions of Code Sections 49-2-17 and 49-2-18. No  
2940 person, business entity, corporation, or association, whether operated for profit or not for  
2941 profit, may operate a community living arrangement without first obtaining a license or  
2942 provisional license from the department. A license issued pursuant to this paragraph is  
2943 not assignable or transferable. As used in this paragraph, the term 'community living  
2944 arrangement' means any residence, whether operated for profit or not, which undertakes  
2945 through its ownership or management to provide or arrange for the provision of housing,  
2946 food, one or more personal services, supports, care, or treatment exclusively for two or  
2947 more persons who are not related to the owner or administrator of the residence by blood  
2948 or marriage; and

2949 (12) Classify host homes for persons whose services are financially supported, in whole  
2950 or in part, by funds authorized through the department and provide guidelines for and  
2951 oversight of host homes, which may include, but not be limited to, criteria to become a  
2952 host home, requirements relating to physical plants and supports, placement procedures,  
2953 and ongoing oversight requirements. A host home shall be occupied by the owner or  
2954 lessee, who shall not be an employee of the same community provider which provides  
2955 the host home services by contract with the department. The department shall approve  
2956 and enter into agreements with community providers which, in turn, contract with host  
2957 homes. The occupant owner or lessee shall not be the guardian of any person served or  
2958 of their property nor the agent in such person's advance directive for health care. The  
2959 placement determination for each person placed in a host home shall be made according  
2960 to such person's choice, as well as the individual needs of such person in accordance with  
2961 the requirements of Code Section 37-3-162, 37-4-122, or 37-7-162, as applicable to such  
2962 person. As used in this paragraph, the term 'host home' means a private residence in a  
2963 residential area in which the occupant owner or lessee provides housing and provides or  
2964 arranges for the provision of food, one or more personal services, supports, care, or

2965 treatment exclusively for one or two persons who are not related to the occupant owner  
 2966 or lessee by blood or marriage.

2967 49-2-7.

2968 (a) The functions, duties, and authority of the Board of Public Welfare, established by Ga.  
 2969 L. 1919, p. 222, as amended, as transferred and vested in the Board of Control of  
 2970 Eleemosynary Institutions by Ga. L. 1931, p. 7, Section 44A, are vested in the Department  
 2971 of Human ~~Resources~~ Services.

2972 (b) The functions, duties, and authority of the Department of Family and Children  
 2973 Services, created in Ga. L. 1937, p. 355, as amended, are vested in the Department of  
 2974 Human ~~Resources~~ Services.

2975 (c) The functions of the State Board for Children and Youth, created in Ga. L. 1963, p. 81,  
 2976 except for the policy-making functions transferred to the Board of Human Resources, are  
 2977 vested in the Department of Human ~~Resources~~ Services.

2978 (d) ~~Reserved.~~

2979 (e) The functions, duties, and authority of the State Commission on Aging, created in Ga.  
 2980 L. 1962, p. 602, except the policy-making functions transferred to the Board of Human  
 2981 ~~Resources~~ Services, are vested in the Department of Human ~~Resources~~ Services.

2982 49-2-8.

2983 ~~The five members of the board who are licensed to practice medicine pursuant to Chapter~~  
 2984 ~~34 of Title 43 shall pass upon and approve the professional qualifications of all physicians~~  
 2985 ~~and medical doctors employed by the department.~~ Reserved.

2986 49-2-9.

2987 In administering any funds appropriated or made available to the department for welfare  
 2988 purposes, the department shall have the power:

2989 (1) To make use of all local processes to enforce the minimum standards prescribed  
 2990 under or pursuant to the laws providing for grants-in-aid; and

2991 (2) To administer and disburse any and all funds which may be allocated by any  
 2992 municipality of the state or private organization or society for such purposes as may be  
 2993 designated by such municipality or other agency. The department may use a reasonable  
 2994 percentage of such funds for administrative costs, not to exceed 10 percent of the total  
 2995 sum administered.

2996 49-2-10.

2997 For the purpose of carrying out the duties and obligations of the department for  
2998 performance of welfare services of the state, for administrative costs, for matching such  
2999 federal funds as may be available for all of the aforesaid services, for the purpose of  
3000 establishing an equalization fund to be used in assisting those counties which may be  
3001 unable otherwise to bear their proportionate share of the expenses of administration and of  
3002 dispensing the benefits provided for under this title, and for dispensing all of the benefits  
3003 provided for under this title, the General Assembly shall make appropriations out of the  
3004 general fund of the state or otherwise for the various and separate activities of the  
3005 department. All funds appropriated or allocated to the department or to the county  
3006 departments by the General Assembly, the fiscal authorities of the respective counties, and  
3007 by the federal government through its appropriate agencies and instrumentalities are  
3008 declared to be funds provided for a public purpose; and all appropriations provided for in  
3009 this Code section and hereafter may be expended and distributed by the department for the  
3010 purposes provided for under this title.

3011 49-2-11.

3012 (a) Notwithstanding any provision in this title to the contrary, particularly Articles 2, 3,  
3013 and 5 of Chapter 4 of this title, nothing therein contained shall be construed to prevent the  
3014 acceptance of more than 50 percent federal matching funds. The department may accept  
3015 and disburse the maximum percentage of federal grant-in-aid funds made available to this  
3016 state by the federal government under any formula of variable grants or other formula for  
3017 the granting of federal grants-in-aid.

3018 (b) The department is authorized to comply with the requirements prescribed by Congress  
3019 as conditions to federal grants.

3020 (c) To the end of empowering the department to comply with federal requirements and to  
3021 effectuate the purposes of grant-in-aid welfare programs, the board is authorized to  
3022 promulgate all necessary rules and regulations and the department is authorized to do all  
3023 things necessary and proper for the securing of the maximum amount of such federal  
3024 grants.

3025 (d) In the event that Congress appropriates funds for grants-in-aid to the state governments  
3026 for the purpose of assisting them in the operation of general assistance programs, medical  
3027 assistance programs, or any other welfare programs, the department is authorized to  
3028 cooperate with the federal government in such programs, to accept funds from the federal  
3029 government in the maximum amounts made available, to disburse them, and to comply  
3030 with all requirements of the federal government necessary for the securing of such  
3031 grant-in-aid funds.

3032 (e) Any state funds which are made available by appropriation to the department for  
3033 matching federal funds shall be available to supply the state portion of expenditures for  
3034 general assistance programs, medical assistance programs, or any other type welfare  
3035 programs provided for by the federal government which benefit the citizens or residents  
3036 of this state.

3037 (f) Notwithstanding subsections (a) through (e) of this Code section, the Department of  
3038 ~~Community~~ Health shall be the single state agency for the administration of the state  
3039 medical assistance plan.

3040 49-2-12.

3041 (a) All divisions and sections within the department shall make an inventory of all the  
3042 various vehicles to which the department holds title and shall investigate their utilization  
3043 patterns in order to establish and develop a consolidated and coordinated transportation  
3044 plan for the various human services programs of the department, including, but not limited  
3045 to, those programs relating to the aged and to the mentally and physically disabled.

3046 (b) Other departments and agencies of the state shall cooperate with the Department of  
3047 ~~Human Resources~~ Services in mutually beneficial agreements regarding the establishment  
3048 and development of a coordinated transportation plan involving various vehicles to which  
3049 the state has title.

3050 (c) The plan required to be developed under this Code section shall identify the fully  
3051 allocated costs of the transportation component of their services and take into consideration  
3052 various limitations on the expenditure of federal funds which may arise in any consolidated  
3053 or coordinated transportation system. No later than June 30, 1980, a preliminary  
3054 transportation plan shall be submitted by the department to the Human Relations and Aging  
3055 Committee of the House of Representatives and the Education and Youth, Aging, and  
3056 ~~Human Ecology~~ Committee of the Senate, which plan shall be revised and submitted to  
3057 such committees every two years thereafter.

3058 49-2-13.

3059 All divisions and sections within the department, in cooperation with the Department of  
3060 Transportation, shall identify those areas of the state where the general transportation needs  
3061 of the elderly and persons with disabilities are not and cannot be adequately served by bus  
3062 service and community service centers furnishing transportation. In further cooperation  
3063 with the Department of Transportation, the department shall identify alternatives for  
3064 meeting the transportation needs of these persons and shall report to the committees  
3065 specified in subsection (c) of Code Section 49-2-12 as required therein. Such alternative

3066 means to be considered for providing for the transportation needs of these persons should  
3067 include, but shall not be limited to:

- 3068 (1) Contract service resulting from competitive bidding by private sector bus operators  
3069 operating under Article 1 of Chapter 7 of Title 46;
- 3070 (2) Contract service resulting from competitive bidding by taxi operators;
- 3071 (3) Negotiated fee basis with municipal and area-wide transportation systems serving the  
3072 general public; or
- 3073 (4) Any combination of ~~above~~ paragraphs (1) through (3) of this Code section.

3074 49-2-13.1.

3075 (a) The department may, when funds are available from the United States government for  
3076 such purposes, provide financial assistance with such funds, or such funds and state general  
3077 funds appropriated for these purposes, to private nonprofit corporations and associations  
3078 for the specific purpose of assisting them in providing transportation services meeting the  
3079 special needs of the elderly or persons with disabilities, or both, for whom the department  
3080 determines that the mass transportation services planned, designed, and carried out by local  
3081 public bodies, agencies, and authorities are unavailable, insufficient, or inappropriate.  
3082 Such financial assistance shall be subject to those terms, conditions, requirements, and  
3083 restrictions as the department determines to be necessary or appropriate in order to carry  
3084 out the purposes of this Code section.

3085 (b) In order to effectuate and enforce this Code section, the department is authorized to  
3086 promulgate necessary rules and regulations and to prescribe conditions and procedures in  
3087 order to assure compliance in carrying out the purposes of this Code section.

3088 49-2-14.

3089 (a) As used in this Code section, the term 'conviction data' means a record of a finding or  
3090 verdict of guilty or a plea of guilty or a plea of nolo contendere with regard to any crime,  
3091 regardless of whether an appeal of the conviction has been sought.

3092 (b) The department may receive from any law enforcement agency conviction data that is  
3093 relevant to a person whom the department, its contractors, or a district or county health  
3094 agency is considering as a final selectee for employment in a position the duties of which  
3095 involve direct care, treatment, custodial responsibilities, or any combination thereof for its  
3096 clients. The department may also receive conviction data which is relevant to a person  
3097 whom the department, its contractors, or a district or county health agency is considering  
3098 as a final selectee for employment in a position if, in the judgment of the employer, a final  
3099 employment decision regarding the selectee can only be made by a review of conviction  
3100 data in relation to the particular duties of the position and the security and safety of clients,



3101 the general public, or other employees. Further, the department or any licensed  
3102 child-placing agency, designated by the department to assist it in preparing studies of  
3103 homes in which children in its custody may be placed, may receive from any law  
3104 enforcement agency conviction data that is relevant to any adult person who resides in a  
3105 home where children in the custody of the department may be placed.

3106 (c) The department shall establish a uniform method of obtaining conviction data under  
3107 subsection (a) of this Code section which shall be applicable to the department, and its  
3108 contractors, ~~and any district or county health agency~~. Such uniform method shall require  
3109 the submission to the Georgia Crime Information Center of ~~two complete sets of~~  
3110 fingerprints and the records search fee in accordance with Code Section 35-3-35. Upon  
3111 receipt thereof, the Georgia Crime Information Center shall promptly transmit ~~one set of~~  
3112 fingerprints to the Federal Bureau of Investigation for a search of bureau records and an  
3113 appropriate report and shall ~~retain the other set and~~ promptly conduct a search of its own  
3114 records and records to which it has access. After receiving the fingerprints and fee, the  
3115 Georgia Crime Information Center shall notify the department in writing of any derogatory  
3116 finding, including, but not limited to, any conviction data regarding the fingerprint records  
3117 check or if there is no such finding.

3118 (d) All conviction data received shall be for the exclusive purpose of making employment  
3119 decisions or decisions concerning children in the custody of the department or who are the  
3120 subjects of a child protective services referral, complaint, or investigation and shall be  
3121 privileged and shall not be released or otherwise disclosed to any other person or agency  
3122 except to any person or agency with a legal right to inspect the employment, department,  
3123 or licensed child-placing agency file. Immediately following the employment decisions  
3124 or upon receipt of the conviction data concerning any adult person who has contact with  
3125 a child who is the subject of a child protective services referral, complaint, or investigation  
3126 or who resides in a home where children in the custody of the department may be placed,  
3127 all such conviction data collected by the department or the licensed child-placing agency  
3128 shall be maintained by the department or child-placing agency pursuant to laws regarding  
3129 and the rules or regulations of the Federal Bureau of Investigation and the Georgia Crime  
3130 Information Center, as is applicable. Penalties for the unauthorized release or disclosure  
3131 of any conviction data shall be as prescribed pursuant to laws regarding and rules or  
3132 regulations of the Federal Bureau of Investigation and the Georgia Crime Information  
3133 Center, as is applicable.

3134 (e) Notwithstanding the provisions of subsection (c) of this Code section, when a  
3135 contractor to this department is a personal care home, the provisions of Code Sections  
3136 31-7-250 through 31-7-264 shall apply.

3137 (f) The department may promulgate written rules and regulations to implement the  
3138 provisions of this Code section.

3139 (g) The department may receive from any law enforcement agency criminal history  
3140 information, including arrest and conviction data, and any and all other information which  
3141 it may be provided pursuant to state or federal law which is relevant to any adult person  
3142 who resides in a home where children in the custody of the department have been or may  
3143 be placed or which is relevant to any adult person who resides in the home of or provides  
3144 care to a child who is the subject of a child protective services referral, complaint, or  
3145 investigation to the fullest extent permissible by federal and state law, including but not  
3146 limited to Public Law 92-544. The department shall establish a uniform method of  
3147 obtaining criminal history information under this subsection. Such method shall require  
3148 the submission to the Georgia Crime Information Center of ~~two complete sets of fingerprint~~  
3149 ~~cards~~ fingerprints together with any required records search fee in accordance with Code  
3150 Section 35-3-35. Upon receipt thereof, the Georgia Crime Information Center shall  
3151 promptly transmit ~~one set of~~ the fingerprints submitted by the department to the Federal  
3152 Bureau of Investigation for a search of bureau records and an appropriate report and shall  
3153 ~~retain the other set and~~ promptly conduct a search of its own records and records to which  
3154 it has access. Such method shall also permit the submission of the names alone of such  
3155 adult persons to the proper law enforcement agency when the department is considering  
3156 placement of a child in exigent circumstances for a name based check of such adult  
3157 person's criminal history information as maintained by the Georgia Crime Information  
3158 Center and the Federal Bureau of Investigation. In such exigent circumstances, the  
3159 department shall submit ~~two complete sets of fingerprint cards~~ fingerprints of those adult  
3160 persons in the placement home, together with any required records search fee, to the  
3161 Federal Bureau of Investigation within 15 calendar days of the date of the name based  
3162 check on that person. ~~Fingerprint cards~~ The fingerprints shall be forwarded to the Federal  
3163 Bureau of Investigation through the Georgia Crime Information Center in accordance with  
3164 Code Section 35-3-35. Following the submission of such ~~fingerprint cards~~ fingerprints, the  
3165 department may receive the criminal history information, including arrest and conviction  
3166 data, relevant to such person. In the event that a child has been placed in exigent  
3167 circumstances, a name based records search has been requested for any adult person of the  
3168 placement household, and that adult refuses to provide fingerprints after being requested  
3169 to do so by the department, the child shall be immediately removed from the placement  
3170 household by the department, provided that the child is in the custody of the department.

3171 (h) The department shall be authorized to conduct a name or descriptor based check of any  
3172 adult person's criminal history information, including arrest and conviction data, and other  
3173 information from the Georgia Crime Information Center regarding any adult person who

3174 resides in a home where children in the custody of the department have been or may be  
 3175 placed or which is relevant to any adult person who resides in the home of or provides care  
 3176 to a child who is the subject of a child protective services referral, complaint, or  
 3177 investigation without the consent of such adult person and without fingerprint comparison  
 3178 to the fullest extent permissible by federal and state law.

3179 49-2-14.1.

3180 (a) As used in this Code section, the term:

3181 (1) 'Conviction' means a finding or verdict of guilty or a plea of guilty regardless of  
 3182 whether an appeal of the conviction has been sought.

3183 (2) 'Crime' means commission of the following offenses:

3184 (A) A violation of Code Section 16-5-1, relating to murder and felony murder;

3185 (B) A violation of Code Section 16-5-21, relating to aggravated assault;

3186 (C) A violation of Code Section 16-5-24, relating to aggravated battery;

3187 (D) A violation of Code Section 16-5-70, relating to cruelty to children;

3188 (E) A violation of Code Section 16-5-100, relating to cruelty to a person 65 years of  
 3189 age or older;

3190 (F) A violation of Code Section 16-6-1, relating to rape;

3191 (G) A violation of Code Section 16-6-2, relating to aggravated sodomy;

3192 (H) A violation of Code Section 16-6-4, relating to child molestation;

3193 (I) A violation of Code Section 16-6-5, relating to enticing a child for indecent  
 3194 purposes;

3195 (J) A violation of Code Section 16-6-5.1, relating to sexual assault against persons in  
 3196 custody, detained persons, or patients in hospitals or other institutions;

3197 (K) A violation of Code Section 16-6-22.2, relating to aggravated sexual battery;

3198 (L) A violation of Code Section 16-8-41, relating to armed robbery;

3199 (M) A violation of Code Section 30-5-8, relating to abuse, neglect, or exploitation of  
 3200 a disabled adult or elder person; or

3201 (N) Any other offense committed in another jurisdiction that, if committed in this state,  
 3202 would be deemed to be a crime listed in this paragraph without regard to its designation  
 3203 elsewhere.

3204 (3) 'Criminal record' means any of the following:

3205 (A) Conviction of a crime;

3206 (B) Arrest, charge, and sentencing for a crime where:

3207 (i) A plea of nolo contendere was entered to the charge;

3208 (ii) First offender treatment without adjudication of guilt pursuant to the charge was  
 3209 granted; or

- 3210 (iii) Adjudication or sentence was otherwise withheld or not entered on the charge;  
 3211 or  
 3212 (C) Arrest and being charged for a crime if the charge is pending, unless the time for  
 3213 prosecuting such crime has expired pursuant to Chapter 3 of Title 17.
- 3214 (4) 'Facility' means a:
- 3215 (A) ~~Personal care home required to be licensed or permitted under Code Section~~  
 3216 ~~31-7-12;~~  
 3217 ~~(B) Private home care provider required to be licensed under Article 13 of Chapter 7~~  
 3218 ~~of Title 31;~~  
 3219 ~~(C) Community living arrangement subject to licensure under paragraph (16)(11) of~~  
 3220 ~~subsection (b) and subsection (c) of Code Section 37-1-20 49-2-6; or~~  
 3221 ~~(D)~~(B) Child welfare agency required to be licensed under Code Section 49-5-12.
- 3222 (5) 'GCIC' means the Georgia Crime Information Center established under Article 2 of  
 3223 Chapter 3 of Title 35.
- 3224 (6) 'GCIC information' means criminal history record information as defined in Code  
 3225 Section 35-3-30.
- 3226 (7) 'License' means the document issued by the department to authorize the facility to  
 3227 operate.
- 3228 (8) 'Owner' means any individual or any person affiliated with a corporation, partnership,  
 3229 or association with 10 percent or greater ownership interest in a facility providing care  
 3230 to persons under the license of the facility in this state and who:
- 3231 (A) Purports to or exercises authority of the owner in a facility;  
 3232 (B) Applies to operate or operates a facility;  
 3233 (C) Maintains an office on the premises of a facility;  
 3234 (D) Resides at a facility;  
 3235 (E) Has direct access to persons receiving care at a facility;  
 3236 (F) Provides direct personal supervision of facility personnel by being immediately  
 3237 available to provide assistance and direction during the time such facility services are  
 3238 being provided; or  
 3239 (G) Enters into a contract to acquire ownership of a facility.
- 3240 (9) 'Records check application' means ~~two sets of classifiable~~ fingerprints in such form  
 3241 and of such quality as prescribed by the Georgia Crime Information Center under  
 3242 standards adopted by the Federal Bureau of Investigation and a records search fee to be  
 3243 established by the department by rule and regulation, payable in such form as the  
 3244 department may direct to cover the cost of obtaining criminal background information  
 3245 pursuant to this Code section.

3246 (b) An owner with a criminal record shall not operate or hold a license to operate a facility,  
3247 and the department shall revoke the license of any owner operating a facility or refuse to  
3248 issue a license to any owner operating a facility if it determines that such owner has a  
3249 criminal record; provided, however, that an owner who holds a license to operate a facility  
3250 on or before June 30, 2007, shall not have his or her license revoked prior to a hearing  
3251 being held before a hearing officer pursuant to Chapter 13 of Title 50, the 'Georgia  
3252 Administrative Procedure Act.'

3253 (c)(1) Prior to approving any license for a new facility and periodically as established by  
3254 the department by rule and regulation, the department shall require an owner to submit  
3255 a records check application. The department shall establish a uniform method of  
3256 obtaining an owner's records check application.

3257 (2)(A) Unless the department contracts pursuant to subparagraph (B) of this paragraph,  
3258 the department shall transmit to the GCIC ~~both sets of the~~ fingerprints and ~~the~~ records  
3259 search fee from each fingerprint records check application in accordance with Code  
3260 Section 35-3-35. Upon receipt thereof, the GCIC shall promptly transmit ~~one set of the~~  
3261 fingerprints to the Federal Bureau of Investigation for a search of bureau records and  
3262 an appropriate report and shall ~~retain the other set and~~ promptly conduct a search of its  
3263 records and records to which it has access. Within ten days after receiving fingerprints  
3264 acceptable to the GCIC and the fee, the GCIC shall notify the department in writing of  
3265 any criminal record or if there is no such finding. After a search of Federal Bureau of  
3266 Investigation records and fingerprints and upon receipt of the bureau's report, the  
3267 department shall make a determination about an owner's criminal record and shall  
3268 notify the owner in writing as to the department's determination as to whether the owner  
3269 has or does not have a criminal record.

3270 (B) The department may either perform criminal background checks under agreement  
3271 with the GCIC or contract with the GCIC and appropriate law enforcement agencies  
3272 which have access to GCIC and Federal Bureau of Investigation information to have  
3273 those agencies perform for the department criminal background checks for owners. The  
3274 department or the appropriate law enforcement agencies may charge reasonable fees  
3275 for performing criminal background checks.

3276 (3)(A) The department's determination regarding an owner's criminal record, or any  
3277 action by the department revoking or refusing to grant a license based on such  
3278 determination, shall constitute a contested case for purposes of Chapter 13 of Title 50,  
3279 the 'Georgia Administrative Procedure Act,' except that any hearing required to be held  
3280 pursuant thereto may be held reasonably expeditiously after such determination or  
3281 action by the department.

3282 (B) In a hearing held pursuant to subparagraph (A) of this paragraph or subsection (b)  
 3283 of this Code section, the hearing officer shall consider in mitigation the length of time  
 3284 since the crime was committed, the absence of additional criminal charges, the  
 3285 circumstances surrounding the commission of the crime, other indicia of rehabilitation,  
 3286 the facility's history of compliance with the regulations, and the owner's involvement  
 3287 with the licensed facility in arriving at a decision as to whether the criminal record  
 3288 requires the denial or revocation of the license to operate the facility. Where a hearing  
 3289 is required, at least 30 days prior to such hearing, the hearing officer shall notify the  
 3290 office of the prosecuting attorney who initiated the prosecution of the crime in question  
 3291 in order to allow the prosecutor to object to a possible determination that the conviction  
 3292 would not be a bar for the grant or continuation of a license as contemplated within this  
 3293 Code section. If objections are made, the hearing officer shall take such objections into  
 3294 consideration in considering the case.

3295 (4) ~~Neither the~~ The GCIC, the department, any law enforcement agency, ~~nor~~ and the  
 3296 employees of any such entities shall not be responsible for the accuracy of information  
 3297 nor have any liability for defamation, invasion of privacy, negligence, or any other claim  
 3298 in connection with any dissemination of information or determination based thereon  
 3299 pursuant to this Code section.

3300 (d) All information received from the Federal Bureau of Investigation or the GCIC shall  
 3301 be for the exclusive purpose of approving or denying the granting of a license to a new  
 3302 facility or the revision of a license of an existing facility when a new owner is proposed and  
 3303 shall not be released or otherwise disclosed to any other person or agency except to any  
 3304 person or agency with a legal right to inspect the facility. All such information collected  
 3305 by the department shall be maintained by the department pursuant to laws regarding and  
 3306 the rules or regulations of the Federal Bureau of Investigation and the GCIC, as is  
 3307 applicable. Penalties for the unauthorized release or disclosure of any such information  
 3308 shall be as prescribed pursuant to laws regarding and rules or regulations of the Federal  
 3309 Bureau of Investigation and the GCIC, as is applicable.

3310 (e) The requirements of this Code section are supplemental to any requirements for a  
 3311 license imposed by Article 3 of Chapter 5 of this title or Article 11 of Chapter 7 of Title 31.

3312 (f) The department shall promulgate written rules and regulations to implement the  
 3313 provisions of this Code section.

3314 49-2-15.

3315 When any action is brought against the Department of Human ~~Resources~~ Services, the  
 3316 Board of Human ~~Resources~~ Services, the commissioner of human ~~resources~~ services, or  
 3317 any employee or agent thereof or when any action is brought in which the department could

3318 be held responsible for damages awarded in such action, it shall be the duty of the plaintiff  
 3319 to provide for service of notice of the pendency of such action by providing for service of  
 3320 a second original process, issued from the court in which the action is filed, upon the  
 3321 commissioner of human ~~resources~~ services personally or upon a person designated by the  
 3322 commissioner in writing to serve as agent for the acceptance of such service of process.  
 3323 The service of process in such action shall not be perfected until such second original  
 3324 process has been served as provided in this Code section. The provisions of this Code  
 3325 section shall be cumulative of any other requirements imposed by law for the service of  
 3326 process or notice.

3327 49-2-16.

3328 (a) There is created a Georgia Council for Welfare Administration. The objectives ~~for~~ of  
 3329 the council shall be:

3330 (1) To promote improvements in public welfare and social service programs of the  
 3331 Division of Family and Children Services within the Department of Human ~~Resources~~  
 3332 Services;

3333 (2) To provide a forum for the interchange of information relating to welfare and social  
 3334 service programs; and

3335 (3) To promote with any organization exempt under Section 501(c)(4) of the United  
 3336 States Internal Revenue Code of 1986 a more efficient public welfare delivery system for  
 3337 the citizens of this state.

3338 (b) Membership in the council shall be open to persons actively employed in the Division  
 3339 of Family and Children Services within the Department of Human ~~Resources~~ Services.

3340 (c) No state funds shall be appropriated for the benefit or use of the council.

3341 (d) The council is authorized to adopt bylaws which prescribe its organizational structure,  
 3342 officers, terms and condition of office, meeting schedules, and such other organizational  
 3343 procedures as are necessary for its lawful and effective functioning.

3344 (e) The commissioner of human ~~resources~~ services shall call the initial meeting of the  
 3345 council at which time the council shall organize and select its officers.

3346 49-2-17.

3347 (a) This Code section shall be applicable to any agency, facility, institution, community  
 3348 living arrangement, or entity subject to regulation by the department under Chapter 5 of  
 3349 this title or paragraph (11) of subsection (b) of Code Section 49-2-6. For purposes of this  
 3350 Code section, the term 'license' shall be used to refer to any license, permit, registration, or  
 3351 commission issued by the department pursuant to the provisions of the law cited in this  
 3352 subsection.

3353 (b) The department shall have the authority to take any of the actions enumerated in  
3354 subsection (c) of this Code section upon a finding that the applicant or licensee has:

3355 (1) Knowingly made any false statement of material information in connection with the  
3356 application for a license, or in statements made or on documents submitted to the  
3357 department as part of an inspection, survey, or investigation, or in the alteration or  
3358 falsification of records maintained by the agency, facility, institution, or entity;

3359 (2) Failed or refused to provide the department with access to the premises subject to  
3360 regulation or information pertinent to the initial or continued licensing of the agency,  
3361 facility, institution, or entity;

3362 (3) Failed to comply with the licensing requirements of this state; or

3363 (4) Failed to comply with any provision of this Code section.

3364 (c) When the department finds that any applicant or licensee has violated any provision  
3365 of subsection (b) of this Code section or laws, rules, regulations, or formal orders related  
3366 to the initial or continued licensing of the agency, facility, institution, or entity, the  
3367 department, subject to notice and opportunity for hearing, may take any of the following  
3368 actions:

3369 (1) Refuse to grant a license; provided, however, that the department may refuse to grant  
3370 a license without holding a hearing prior to taking such action;

3371 (2) Administer a public reprimand;

3372 (3) Suspend any license for a definite period or for an indefinite period in connection  
3373 with any condition which may be attached to the restoration of said license;

3374 (4) Prohibit any applicant or licensee from allowing a person who previously was  
3375 involved in the management or control, as defined by rule, of any agency, facility,  
3376 institution, or entity which has had its license or application revoked or denied within the  
3377 past 12 months to be involved in the management or control of such agency, facility,  
3378 institution, or entity;

3379 (5) Revoke any license;

3380 (6) Impose a fine, not to exceed a total of \$25,000.00, of up to \$1,000.00 per day for  
3381 each violation of a law, rule, regulation, or formal order related to the initial or ongoing  
3382 licensing of any agency, facility, institution, or entity; or

3383 (7) Limit or restrict any license as the department deems necessary for the protection of  
3384 the public, including, but not limited to, restricting some or all services of or admissions  
3385 into an agency, facility, institution, or entity for a time certain.

3386 In taking any of the actions enumerated in this subsection, the department shall consider  
3387 the seriousness of the violation, including the circumstances, extent, and gravity of the  
3388 prohibited acts, and the hazard or potential hazard created to the health or safety of the  
3389 public.



3390 (d) The department may deny a license or otherwise restrict a license for any applicant  
3391 who has had a license denied, revoked, or suspended within one year of the date of an  
3392 application or who has transferred ownership or governing authority of an agency, facility,  
3393 institution, or entity subject to regulation by the department within one year of the date of  
3394 a new application when such transfer was made in order to avert denial, revocation, or  
3395 suspension of a license.

3396 (e) With regard to any contested case instituted by the department pursuant to this Code  
3397 section or other provisions of law which may now or hereafter authorize remedial or  
3398 disciplinary grounds and action, the department may, in its discretion, dispose of the action  
3399 so instituted by settlement. In such cases, all parties, successors, and assigns to any  
3400 settlement agreement shall be bound by the terms specified therein and violation thereof  
3401 by any applicant or licensee shall constitute grounds for any action enumerated in  
3402 subsection (c) of this Code section.

3403 (f) The department shall have the authority to make public or private investigations or  
3404 examinations inside or outside of this state to determine whether the provisions of this  
3405 Code section or any other law, rule, regulation, or formal order relating to the licensing of  
3406 any agency, facility, institution, or entity has been violated. Such investigations may be  
3407 initiated at any time, in the discretion of the department, and may continue during the  
3408 pendency of any action initiated by the department pursuant to subsection (c) of this Code  
3409 section.

3410 (g) For the purpose of conducting any investigation, inspection, or survey, the department  
3411 shall have the authority to require the production of any books, records, papers, or other  
3412 information related to the initial or continued licensing of any agency, facility, institution,  
3413 or entity.

3414 (h) Pursuant to the investigation, inspection, and enforcement powers given to the  
3415 department by this Code section and other applicable laws, the department may assess  
3416 against an agency, facility, institution, or entity reasonable and necessary expenses incurred  
3417 by the department pursuant to any administrative or legal action required by the failure of  
3418 the agency, facility, institution, or entity to fully comply with the provisions of any law,  
3419 rule, regulation, or formal order related to the initial or continued licensing. Assessments  
3420 shall not include attorney's fees and expenses of litigation, shall not exceed other actual  
3421 expenses, and shall only be assessed if such investigations, inspection, or enforcement  
3422 actions result in adverse findings, as finally determined by the department, pursuant to  
3423 administrative or legal action.

3424 (i) For any action taken or any proceeding held under this Code section or under color of  
3425 law, except for gross negligence or willful or wanton misconduct, the department, when

3426 acting in its official capacity, shall be immune from liability and suit to the same extent that  
 3427 any judge of any court of general jurisdiction in this state would be immune.

3428 (j) In an administrative or legal proceeding under this Code section, a person or entity  
 3429 claiming an exemption or an exception granted by law, rule, regulation, or formal order has  
 3430 the burden of proving this exemption or exception.

3431 (k) This Code section and all actions resulting from its provisions shall be administered  
 3432 in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

3433 (l) The provisions of this Code section shall be supplemental to and shall not operate to  
 3434 prohibit the department from acting pursuant to those provisions of law which may now  
 3435 or hereafter authorize remedial or disciplinary grounds and action for the department. In  
 3436 cases where those other provisions of law so authorize other disciplinary grounds and  
 3437 actions, but this Code section limits such grounds or actions, those other provisions shall  
 3438 apply.

3439 (m) The department is authorized to promulgate rules and regulations to implement the  
 3440 provisions of this Code section.

3441 49-2-18.

3442 (a)(1) The commissioner may order the emergency relocation of patients or residents  
 3443 from a community living arrangement subject to licensure under paragraph (11) of  
 3444 subsection (b) of Code Section 49-2-6 when the commissioner has determined that the  
 3445 patients or residents are subject to an imminent and substantial danger.

3446 (2) When an order is issued under this subsection, the commissioner shall provide for:  
 3447 (A) Notice to the patient or resident, his or her next of kin or guardian, and his or her  
 3448 physician of the emergency relocation and the reasons therefor;  
 3449 (B) Relocation to the nearest appropriate community living arrangement; and  
 3450 (C) Other protection designed to ensure the welfare and, when possible, the desires of  
 3451 the patient or resident.

3452 (b)(1) The commissioner may order the emergency placement of a monitor in a  
 3453 community living arrangement subject to licensure under paragraph (11) of subsection  
 3454 (b) of Code Section 49-2-6 when one or more of the following conditions are present:

3455 (A) The community living arrangement is operating without a license;  
 3456 (B) The department has denied application for a license or has initiated action to  
 3457 revoke the existing license of the community living arrangement;  
 3458 (C) The community living arrangement is closing or plans to close and adequate  
 3459 arrangements for relocation of the patients or residents have not been made at least 30  
 3460 days before the date of closure; or

3461 (D) The health, safety, security, rights, or welfare of the patients or residents cannot  
3462 be adequately assured by the community living arrangement.

3463 (2) A monitor may be placed, pursuant to this subsection, in a community living  
3464 arrangement for no more than ten days, during which time the monitor shall observe  
3465 conditions and compliance with any recommended remedial action of the department by  
3466 the community living arrangement. The monitor shall report to the department. The  
3467 monitor shall not assume any administrative responsibility within the community living  
3468 arrangement nor shall the monitor be liable for any actions of the community living  
3469 arrangement. The costs of placing a monitor in a community living arrangement shall be  
3470 paid by the community living arrangement unless the order placing the monitor is  
3471 determined to be invalid in a contested case proceeding under subsection (d) of this Code  
3472 section, in which event the costs shall be paid by the state.

3473 (c)(1) The commissioner may order the emergency prohibition of admissions to a  
3474 community living arrangement subject to licensure under paragraph (11) of subsection  
3475 (b) of Code Section 49-2-6 when the community living arrangement has failed to correct  
3476 a violation of departmental permit rules or regulations within a reasonable period of time,  
3477 as specified in the department's corrective order, and the violation:

3478 (A) Could jeopardize the health and safety of the residents or patients in the  
3479 community living arrangement if allowed to remain uncorrected; or

3480 (B) Is a repeat violation over a 12 month period, which is intentional or due to gross  
3481 negligence.

3482 (2) Admission to a community living arrangement may be suspended until the violation  
3483 has been corrected or until the department has determined that the community living  
3484 arrangement has undertaken the action necessary to effect correction of the violation.

3485 (d) The commissioner may issue emergency orders pursuant to this Code section only if  
3486 authorized by rules and regulations of the department. Unless otherwise provided in the  
3487 order, an emergency order shall become effective immediately. The department shall hold  
3488 a preliminary hearing within ten days following a request therefor by any community living  
3489 arrangement affected by an emergency order. If at the preliminary hearing the order is  
3490 determined by the department to be invalid, that order shall thereupon become void and of  
3491 no effect. If at the preliminary hearing the order is determined by the department to be  
3492 valid, that determination shall constitute a contested case under Chapter 13 of Title 50, the  
3493 'Georgia Administrative Procedure Act,' and that order shall remain in effect until  
3494 determined invalid in a proceeding regarding the contested case or until rescinded by the  
3495 commissioner, whichever is earlier. For purposes of this subsection, an emergency order  
3496 is valid only if the order is authorized to be issued under this Code section and rules and  
3497 regulations relating thereto.

3498 (e) The powers provided by this Code section are cumulative of all other powers of the  
 3499 department, board, and commissioner.

3500 ARTICLE 2

3501 49-2-20.

3502 As used in this part, the term:

3503 (1) 'Inspection warrant' means a warrant authorizing a search or inspection of private  
 3504 property where such a search or inspection is one that is necessary for the enforcement  
 3505 of a residential child care licensing law.

3506 (2) 'Residential child care licensing law' means this chapter and Chapter 5 of this title  
 3507 and any rule or regulation duly promulgated thereunder.

3508 49-2-21.

3509 The commissioner or the commissioner's designee, in addition to other procedures now or  
 3510 hereafter provided, may obtain an inspection warrant under the conditions specified in this  
 3511 part. Such warrant shall authorize the commissioner or the commissioner's designee to  
 3512 conduct a search or inspection of property either with or without the consent of the person  
 3513 whose property is to be searched or inspected if such search or inspection is one that is  
 3514 elsewhere authorized under the rules and regulations duly promulgated pursuant to a  
 3515 residential child care licensing law.

3516 49-2-22.

3517 (a) Inspection warrants shall be issued only by a judge of a court of record whose  
 3518 territorial jurisdiction encompasses the property to be inspected.

3519 (b) The issuing judge shall issue the warrant when the judge is satisfied that the following  
 3520 conditions are met:

3521 (1) The one seeking the warrant must establish under oath or affirmation that the  
 3522 property to be inspected is to be inspected as a part of a legally authorized program of  
 3523 inspection which includes that property or that there is probable cause for believing that  
 3524 there is a condition, object, activity, or circumstance which legally justifies such an  
 3525 inspection of that property; and

3526 (2) The issuing judge determines that the issuance of the warrant is authorized by this  
 3527 part.

3528 49-2-23.

3529 The inspection warrant shall be validly issued only if it meets the following requirements:

- 3530 (1) The warrant is attached to the affidavit required to be made in order to obtain the  
 3531 warrant;  
 3532 (2) The warrant describes either directly or by reference to the affidavit the property  
 3533 upon which the inspection is to occur and is sufficiently accurate that the executor of the  
 3534 warrant and the owner or possessor of the property can reasonably determine from it the  
 3535 property of which the warrant authorizes an inspection;  
 3536 (3) The warrant indicates the conditions, objects, activities, or circumstances which the  
 3537 inspection is intended to check or reveal; and  
 3538 (4) The warrant refers in general terms to the statutory or regulatory provisions sought  
 3539 to be enforced.

3540 49-2-24.

3541 No facts discovered or evidence obtained in an inspection conducted under authority of an  
 3542 inspection warrant issued pursuant to this part shall be competent as evidence in any  
 3543 criminal proceeding against any party.

3544 49-2-25.

3545 The Department of Human Services is empowered to institute appropriate proceedings for  
 3546 injunction in the courts of competent jurisdiction in this state for the purpose of enjoining  
 3547 a violation of any provision of a residential child care licensing law as now existing or as  
 3548 may be hereafter amended or of any regulation or order duly issued by the board or  
 3549 department. The department is also empowered to maintain action for injunction to abate  
 3550 any public nuisance which is injurious to the public health, safety, or comfort. Such  
 3551 actions may be maintained notwithstanding the fact that such violation also constitutes a  
 3552 crime and notwithstanding that other adequate remedies at law exist. Such actions may be  
 3553 instituted in the name of the department in the county in which a violation of any provision  
 3554 of this title occurs."

3555 **SECTION 2-2.**

3556 The following Code sections of the Official Code of Georgia Annotated are amended by  
 3557 replacing "Department of Human Resources" wherever it occurs with "Department of Human  
 3558 Services":

- 3559 (1) Code Section 2-7-102, relating to grounds for denial, suspension, revocation, or  
 3560 modification of license, permit, or certification for use and application of pesticides;  
 3561 (2) Code Section 10-1-855, relating to referral procedures to provide intervention and  
 3562 assistance for elder or disabled persons;

- 3563 (3) Code Section 12-6-49.1, relating to denial or suspension of license for  
3564 noncompliance with child support order;
- 3565 (4) Code Section 15-11-8, relating to expenses charged to county and payment by  
3566 parents on court order;
- 3567 (5) Code Section 15-11-14, relating to emergency care and supervision of a child by the  
3568 Department of Human Resources;
- 3569 (6) Code Section 15-11-15, relating to detainment of child in temporary protective  
3570 custody of a physician;
- 3571 (7) Code Section 15-11-19, relating to the establishment of the Council of Juvenile Court  
3572 Judges;
- 3573 (8) Code Section 15-11-55, relating to disposition of a deprived child;
- 3574 (9) Code Section 15-11-58, relating to reasonable efforts regarding reunification of  
3575 family;
- 3576 (10) Code Section 15-11-71, relating to supervision fees for juvenile courts;
- 3577 (11) Code Section 15-11-103, relating to placement of a child following a termination  
3578 order;
- 3579 (12) Code Section 15-11-171, relating to definitions relative to the "Georgia Child  
3580 Advocate for the Protection of Children Act";
- 3581 (13) Code Section 15-11A-4, relating to appointment of personnel to the Family Court  
3582 Division of the Superior Court of Fulton County;
- 3583 (14) Code Section 15-18-14, relating to appointment of prosecuting attorneys;
- 3584 (15) Code Section 18-4-131, relating to definitions relative to continuing garnishment  
3585 for family support;
- 3586 (16) Code Section 19-6-15, relating to child support in final verdict or decree;
- 3587 (17) Code Section 19-6-31, relating to definitions relative to income deduction orders;
- 3588 (18) Code Section 19-6-33.1, relating to the family support registry;
- 3589 (19) Code Section 19-6-51, relating to members of the Georgia Child Support  
3590 Commission;
- 3591 (20) Code Section 19-7-5, relating to reporting of child abuse;
- 3592 (21) Code Section 19-7-6, relating to reporting of juvenile drug use;
- 3593 (22) Code Section 19-7-22, relating to petitions for legitimation of child;
- 3594 (23) Code Section 19-7-40, relating to jurisdiction and administrative determination of  
3595 paternity;
- 3596 (24) Code Section 19-7-43, relating to petitions to establish paternity of a child;
- 3597 (25) Code Section 19-7-52, relating to whom support payments may be made;
- 3598 (26) Code Section 19-7-54, relating to motions to set aside determination of paternity;
- 3599 (27) Code Section 19-8-1, relating to definitions relative to adoption;

- 3600 (28) Code Section 19-8-5, relating to surrender or termination of parental or guardian's  
3601 rights where child to be adopted by a third party;
- 3602 (29) Code Section 19-8-23, relating to where records of adoption are kept;
- 3603 (30) Code Section 19-8-26, relating to how surrender of parental rights is executed;
- 3604 (31) Code Section 19-9-122, relating to delegation of authority for the care of a minor  
3605 child;
- 3606 (32) Code Section 19-9-129, relating to the power of attorney form for the care of a  
3607 minor child;
- 3608 (33) Code Section 19-10A-5, relating to investigating and reporting utilization of  
3609 provisions under the "Safe Place for Newborns Act of 2002";
- 3610 (34) Code Section 19-10A-6, relating to reimbursement of medical costs under the "Safe  
3611 Place for Newborns Act of 2002";
- 3612 (35) Code Section 19-11-3, relating to definitions relative to the "Child Support  
3613 Recovery Act";
- 3614 (36) Code Section 19-11-9.1, relating to duty to furnish information about obligor to the  
3615 Department of Human Resources;
- 3616 (37) Code Section 19-11-9.2, relating to duty of employers to report hiring or rehiring  
3617 of persons;
- 3618 (38) Code Section 19-11-9.3, relating to suspension or denial of license for  
3619 noncompliance with child support order;
- 3620 (39) Code Section 19-11-18, relating to collection procedures for child support payments  
3621 in arrears;
- 3622 (40) Code Section 19-11-30.1, relating to the computer based registry for financial  
3623 institutions with regard to the "Child Support Recovery Act";
- 3624 (41) Code Section 19-11-30.2, relating to definitions relative to the computer based  
3625 registry for financial institutions with regard to the "Child Support Recovery Act";
- 3626 (42) Code Section 19-11-30.3, relating to the responsibility of the Department of Human  
3627 Resources Bank Match Registry;
- 3628 (43) Code Section 19-11-58, relating to the Department of Human Resources designated  
3629 as the state information agency under the "Uniform Reciprocal Enforcement of Support  
3630 Act";
- 3631 (44) Code Section 19-11-102, relating to designated tribunals under the "Uniform  
3632 Interstate Family Support Act";
- 3633 (45) Code Section 19-11-110, relating to jurisdiction under the "Uniform Interstate  
3634 Family Support Act";

- 3635 (46) Code Section 19-11-127, relating to authority of district attorney to represent the  
3636 Department of Human Resources in a proceeding under the "Uniform Interstate Family  
3637 Support Act";
- 3638 (47) Code Section 19-11-129, relating to the Department of Human Resources as the  
3639 state information agency under the "Uniform Interstate Family Support Act";
- 3640 (48) Code Section 19-13-20, relating to definitions relative to family violence shelters;
- 3641 (49) Code Section 19-15-2, relating to child abuse protocol committees;
- 3642 (50) Code Section 19-15-3, relating to county multiagency child fatality review  
3643 committees;
- 3644 (51) Code Section 20-1A-60, relating to definitions relative to the Georgia Child Care  
3645 Council;
- 3646 (52) Code Section 20-2-133, relating to free public instruction for children in elementary  
3647 and secondary education;
- 3648 (53) Code Section 20-2-250, relating to projects to improve effectiveness in elementary  
3649 and secondary education;
- 3650 (54) Code Section 20-2-696, relating to duties of visiting teachers and attendance  
3651 officers;
- 3652 (55) Code Section 20-3-660, relating to creation of a program of postsecondary grants  
3653 for foster children and adopted children;
- 3654 (56) Code Section 29-4-2, relating to qualifications of guardians selected for adults;
- 3655 (57) Code Section 29-4-3, relating to order of preference in selection of guardians;
- 3656 (58) Code Section 29-9-10, relating to oath by a duly appointed delegate of the  
3657 Department of Human Resources;
- 3658 (59) Code Section 29-10-3, relating to qualifications and requirements of public  
3659 guardians;
- 3660 (60) Code Section 29-10-4, relating to registration of public guardians with the probate  
3661 court;
- 3662 (61) Code Section 29-10-10, relating to compensation of public guardians;
- 3663 (62) Code Section 29-10-11, relating to appropriation of funds for compensation of  
3664 public guardians in certain circumstances;
- 3665 (63) Code Section 30-1-5, relating to the definition of a "hearing impaired person";
- 3666 (64) Code Section 30-2-7, relating to compensation of workers in the Georgia Industries  
3667 for the Blind;
- 3668 (65) Code Section 30-5-3, relating to definitions relative to the "Disabled Adults and  
3669 Elder Persons Protection Act"
- 3670 (66) Code Section 30-5-10, relating to cooperative effort in development of programs  
3671 relating to the abuse and exploitation of persons 65 years of age or older;



- 3672 (67) Code Section 31-7-282, relating to collection and submission of health care data;  
3673 (68) Code Section 31-8-52, relating to the establishment of a long-term care ombudsman  
3674 program;  
3675 (69) Code Section 31-8-116, relating to involuntary transfer of residents discharged from  
3676 a long-term care facility;  
3677 (70) Code Section 31-10-9.1, relating to social security account information of parents  
3678 with respect to vital records;  
3679 (71) Code Section 34-8-199, relating to uncollected overissuance of food stamp coupons;  
3680 (72) Code Section 39-4-1, relating to the definition of "appropriate public authority" with  
3681 respect to the Interstate Compact on the Placement of Children;  
3682 (73) Code Section 39-4-2, relating to the definition of "appropriate authority in the  
3683 receiving state" with respect to the Interstate Compact on the Placement of Children;  
3684 (74) Code Section 40-5-2, relating to keeping of records of applications for licenses and  
3685 information on licensees;  
3686 (75) Code Section 40-5-54.1, relating to denial or suspension of license for  
3687 noncompliance with child support order;  
3688 (76) Code Section 42-1-12, relating to the state sexual offender registry;  
3689 (77) Code Section 42-9-58, relating to effect of state pardons and paroles laws on other  
3690 laws respecting parole and probation;  
3691 (78) Code Section 43-1-19, relating to grounds for refusing to grant or revoking licenses  
3692 by a professional licensing board;  
3693 (79) Code Section 45-9-4, relating to the commissioner of administrative services to  
3694 purchase insurance or indemnity contracts;  
3695 (80) Code Section 45-13-22, relating to distribution of Georgia Laws and journals of the  
3696 House of Representatives and Senate;  
3697 (81) Code Section 46-4-152, relating to definitions relative to the "Natural Gas  
3698 Competition and Deregulation Act";  
3699 (82) Code Section 46-4-158.3, relating to adequate and accurate consumer information  
3700 disclosure statements;  
3701 (83) Code Section 48-7-29.15, relating to a tax credit for the adoption of a foster child;  
3702 (84) Code Section 49-3-1, relating to establishment of county and district departments,  
3703 boards, and directors;  
3704 (85) Code Section 49-3-3, relating to appointment of county director; bond of county  
3705 director;  
3706 (86) Code Section 49-3-4, relating to appointment of staff, salaries, and power of the  
3707 commissioner of human resources to transfer employees;

- 3708 (87) Code Section 49-3-6, relating to functions of county departments of family and  
3709 children services;
- 3710 (88) Code Section 49-4-2, relating to definitions relative to public assistance;
- 3711 (89) Code Section 49-4-3, relating to establishment of categories of public assistance;
- 3712 (90) Code Section 49-4-6, relating to reserves, income, and resources to be disregarded  
3713 in determining eligibility for public assistance;
- 3714 (91) Code Section 49-4-8, relating to applications for public assistance;
- 3715 (92) Code Section 49-4-9, relating to investigation and record concerning application for  
3716 public assistance;
- 3717 (93) Code Section 49-4-14, relating to regulations as to records relating to public  
3718 assistance;
- 3719 (94) Code Section 49-4-36, relating to payment of assistance for needy individuals who  
3720 are 65 years of age or older after recipient moves to another county;
- 3721 (95) Code Section 49-4-54, relating to duties of county departments under the "Aid to  
3722 the Blind Act";
- 3723 (96) Code Section 49-4-56, relating to reexamination of recipient's eyesight under the  
3724 "Aid to the Blind Act";
- 3725 (97) Code Section 49-4-60, relating to payment of assistance for needy blind individuals  
3726 after recipient moves to another county;
- 3727 (98) Code Section 49-4-85, relating to payment of assistance for needy individuals who  
3728 are totally and permanently disabled after recipient moves to another county;
- 3729 (99) Code Section 49-4-162, relating to the establishment of the Georgia Qualified  
3730 Long-term Care Partnership Program;
- 3731 (100) Code Section 49-4-171, relating to a hearing on the petition for a personal  
3732 representative to manage assistance payments;
- 3733 (101) Code Section 49-4-181, relating to definitions relative to temporary assistance for  
3734 needy families;
- 3735 (102) Code Section 49-4-183, relating to administration of the temporary assistance for  
3736 needy families program by the Department of Human Resources;
- 3737 (103) Code Section 49-4-190, relating to construction of the laws relating to the  
3738 temporary assistance for needy families program;
- 3739 (104) Code Section 49-5-4, relating to the coordination of other state departments,  
3740 agencies, officers, and employees for children and youth services;
- 3741 (105) Code Section 49-5-7, relating to development and administration of public child  
3742 welfare and youth services;
- 3743 (106) Code Section 49-5-8, relating to powers and duties of the Department of Human  
3744 Resources with respect to programs and protection for children and youth;

- 3745 (107) Code Section 49-5-12, relating to licensing and inspection of child welfare  
 3746 agencies;
- 3747 (108) Code Section 49-5-41, relating to persons and agencies permitted access to child  
 3748 abuse and deprivation records;
- 3749 (109) Code Section 49-5-41.1, relating to inspection and retention of records of juvenile  
 3750 drug use;
- 3751 (110) Code Section 49-5-90, relating to definitions relative to emergency protection of  
 3752 children in certain institutions;
- 3753 (111) Code Section 49-5-130, relating to legislative findings and intent relative to the  
 3754 Governor's Office for Children and Families;
- 3755 (112) Code Section 49-5-154, relating to study of youth needs for delinquency  
 3756 prevention and community based services;
- 3757 (113) Code Section 49-5-180, relating to definitions relative to a central child abuse  
 3758 registry;
- 3759 (114) Code Section 49-5-281, relating to the bill of rights for foster parents;
- 3760 (115) Code Section 49-6-20, relating to the creation of the Council on Aging;
- 3761 (116) Code Section 49-6-60, relating to legislative intent for community care and  
 3762 services for the elderly;
- 3763 (117) Code Section 49-6-61, relating to definitions relative to community care and  
 3764 services for the elderly;
- 3765 (118) Code Section 49-6-72, relating to definitions relative to the "Georgia Family  
 3766 Caregiver Support Act";
- 3767 (119) Code Section 49-6-81, relating to the legislative intent of the "Adult Day Center  
 3768 for Aging Adults Licensure Act";
- 3769 (120) Code Section 49-6-82, relating to definitions relative to the "Adult Day Center for  
 3770 Aging Adults Licensure Act";
- 3771 (121) Code Section 50-5-136, relating to the powers and authority of the State Use  
 3772 Council; and
- 3773 (122) Code Section 50-27-55, relating to setoff of debt collection against lottery prizes  
 3774 applicable to prizes of \$5,000.00 or more.

3775 **SECTION 2-3.**

- 3776 The following Code sections of the Official Code of Georgia Annotated are amended by  
 3777 replacing "Board of Human Resources" wherever it occurs with "Board of Human Services":
- 3778 (1) Code Section 9-10-152, relating to grounds for continuance in any case pending in  
 3779 the courts of this state for attendance by a board member at meeting of Board of Human  
 3780 Resources;

- 3781 (2) Code Section 17-8-30, relating to grounds for granting of continuances in any case  
 3782 pending in the courts of this state for party or party's counsel in attendance as a board  
 3783 member at meeting of Board of Human Resources;
- 3784 (3) Code Section 19-11-5, relating to debt to state created by payment of public  
 3785 assistance under the "Child Support Recovery Act";
- 3786 (4) Code Section 30-5-6, relating to cooperation of other public agencies with the  
 3787 director of the Division of Aging Services of the Department of Human Resources under  
 3788 the "Disabled Adults and Elder Persons Protection Act";
- 3789 (5) Code Section 45-10-40, relating to prohibitions on contracting with state institutions;
- 3790 (6) Code Section 45-10-41, relating to penalty for profiting from contracts with state  
 3791 institutions generally;
- 3792 (7) Code Section 49-3-6, relating to functions of county departments of family and  
 3793 children services;
- 3794 (8) Code Section 49-4-11, relating to award and payment of public assistance to needy  
 3795 persons;
- 3796 (9) Code Section 49-4-12, relating to periodic redetermination of public assistance  
 3797 awards;
- 3798 (10) Code Section 49-4-54, relating to duties of county departments under the "Aid to  
 3799 the Blind Act";
- 3800 (11) Code Section 49-4-181, relating to definitions relative to temporary assistance for  
 3801 needy families;
- 3802 (12) Code Section 49-4-183, relating to administration of the temporary assistance for  
 3803 needy families program by the Department of Human Resources;
- 3804 (13) Code Section 49-5-12, relating to licensing and inspection of child welfare agencies;  
 3805 and
- 3806 (14) Code Section 49-6-62, relating to the establishment of community care unit in the  
 3807 Division of Aging Services of the Department of Human Resources.

3808 **SECTION 2-4.**

3809 The following Code sections of the Official Code of Georgia Annotated are amended by  
 3810 replacing "commissioner of human resources" wherever it occurs with "commissioner of  
 3811 human services":

- 3812 (1) Code Section 19-8-16, relating to investigation by child-placing agency or other  
 3813 agent with respect to adoption;
- 3814 (2) Code Section 19-8-23, relating to where records of adoption are kept;
- 3815 (3) Code Section 19-11-9, relating to location of absent parents by the Department of  
 3816 Human Resources with respect to the "Child Support Recovery Act";

- 3817 (4) Code Section 19-11-11, relating to issuance of subpoenas by the Department of  
3818 Human Resources with respect to the "Child Support Recovery Act";
- 3819 (5) Code Section 19-11-18, relating to collection procedures with respect to the "Child  
3820 Support Recovery Act";
- 3821 (6) Code Section 19-11-30.6, relating to reciprocal agreements with other states with  
3822 respect to the "Child Support Recovery Act";
- 3823 (7) Code Section 19-11-30.7, relating to construction of the "Child Support Recovery  
3824 Act";
- 3825 (8) Code Section 19-11-30.8, relating to annual reports with respect to the "Child  
3826 Support Recovery Act";
- 3827 (9) Code Section 19-11-30.9, relating to information subject to disclosure with respect  
3828 to the "Child Support Recovery Act";
- 3829 (10) Code Section 19-11-30.11, relating to fee on levied accounts with respect to the  
3830 "Child Support Recovery Act";
- 3831 (11) Code Section 20-1A-61, relating to the members of the Child Care Council;
- 3832 (12) Code Section 28-5-60, relating to creation of the Claims Advisory Board;
- 3833 (13) Code Section 30-1-5, relating to the definition of a "hearing impaired person";
- 3834 (14) Code Section 30-2-7, relating to compensation of workers in the Georgia Industries  
3835 for the Blind;
- 3836 (15) Code Section 31-8-53, relating to duties of the state long-term care ombudsman;
- 3837 (16) Code Section 45-7-7, relating to compensation and allowances of certain public  
3838 officials not to be changed without giving public notice;
- 3839 (17) Code Section 45-9-4, relating to commissioner of administrative services to  
3840 purchase insurance or indemnity contracts insuring or indemnifying state officers,  
3841 officials, or employees against personal liability;
- 3842 (18) Code Section 49-3-3, relating to appointment of the director of each county board  
3843 of family and children services;
- 3844 (19) Code Section 49-3-4, relating to appointment of the staff of each county board of  
3845 family and children services;
- 3846 (20) Code Section 49-4-15.1, relating to examination of financial records in instances of  
3847 alleged fraud by recipients of food stamps and public assistance;
- 3848 (21) Code Section 49-4A-3, relating to the creation of the Department of Juvenile  
3849 Justice;
- 3850 (22) Code Section 49-5-90, relating to definitions relative to emergency protection of  
3851 children in certain institutions;
- 3852 (23) Code Section 49-8-3, relating to definitions relative to "The Economic  
3853 Rehabilitation Act of 1975";

- 3854 (24) Code Section 50-5-69, relating to state purchases without competitive bidding; and  
 3855 (25) Code Section 50-5-135, relating to the creation of the State Use Council.

3856 **SECTION 2-5.**

3857 The following Code sections of the Official Code of Georgia Annotated are amended by  
 3858 replacing "Office of Aging" or "Office of Aging Section" wherever it occurs with "Division  
 3859 of Aging Services":

- 3860 (1) Code Section 10-1-855, relating to referral procedures to provide intervention and  
 3861 assistance for elder or disabled persons;  
 3862 (2) Code Section 49-6-5, relating to the creation of the Office of Aging Section within  
 3863 the Department of Human Resources; and  
 3864 (3) Code Section 49-6-20, relating to the creation of the Council on Aging.

3865 **SECTION 2-6.**

3866 Code Section 10-1-395 of the Official Code of Georgia Annotated, relating to the  
 3867 appointment and duties of the administrator and the creation of the Consumer Advisory  
 3868 Board, is amended by revising subsection (a) as follows:

3869 "(a) The administrator shall be appointed by the Governor and shall serve at his pleasure.  
 3870 The office of the administrator shall be attached to the office of the Governor for  
 3871 administrative purposes only. The administrator shall perform all functions formerly  
 3872 performed by the Consumer Services Unit of the Division of Special Programs of the  
 3873 Department of Human Resources (now known as the Department of Human Services)."

3874 **SECTION 2-7.**

3875 Code Section 15-11-63 of the Official Code of Georgia Annotated, relating to commitment  
 3876 of child 13 to 17 years of age to custody of Department of Corrections, is amended by  
 3877 revising paragraph (2) of subsection (e) as follows:

- 3878 "(2) During the placement or any extension thereof:  
 3879 (A) After the expiration of the period provided in subparagraph (C) of paragraph (1) of  
 3880 this subsection, the child shall not be released from intensive supervision without the  
 3881 written approval of the commissioner of juvenile justice or such commissioner's  
 3882 designated deputy;  
 3883 (B) While in a youth development center, the child may be permitted to participate in all  
 3884 youth development center services and programs and shall be eligible to receive special  
 3885 medical and treatment services, regardless of the time of confinement in the youth  
 3886 development center. After the first six months of confinement in a youth development  
 3887 center, a child may be eligible to participate in youth development center sponsored

3888 programs including community work programs and sheltered workshops under the  
 3889 general supervision of a youth development center staff outside of the youth development  
 3890 center; and, in cooperation and coordination with the Department of Human ~~Resources~~  
 3891 Services, the child may be allowed to participate in state sponsored programs for  
 3892 evaluation and services under the Division of Rehabilitation Services of the Department  
 3893 of Labor and the ~~Division of Mental Health, Developmental Disabilities, and Addictive~~  
 3894 ~~Diseases of the Department of Human Resources~~ Department of Behavioral Health;  
 3895 (C) The child shall not be discharged from the custody of the Department of Juvenile  
 3896 Justice unless a motion therefor is granted by the court, which motion shall not be made  
 3897 prior to the expiration of one year of custody; and  
 3898 (D) Unless otherwise specified in the order, the Department of Juvenile Justice shall  
 3899 report in writing to the court not less than once every six months during the placement  
 3900 on the status, adjustment, and progress of the child; and"

#### 3901 SECTION 2-8.

3902 Code Section 19-15-1 of the Official Code of Georgia Annotated, relating to definitions  
 3903 relative to child abuse, is amended by revising paragraph (4) as follows:

3904 "(4) 'Child protection professional' means any person who is employed by the state or a  
 3905 political subdivision of the state as a law enforcement officer, school teacher, school  
 3906 administrator, or school counselor or who is employed to render services to children by  
 3907 the Department of Health, Department of Behavioral Health, or the Department of  
 3908 Human Resources Services or any county board of health or county department of family  
 3909 and children services."

#### 3910 SECTION 2-9.

3911 Code Section 20-1A-3 of the Official Code of Georgia Annotated, relating to the  
 3912 commissioner and board of the Department of Early Care and Learning, is amended by  
 3913 revising subsection (d) as follows:

3914 "(d) The board shall determine policies and promulgate rules and regulations for the  
 3915 operation of the department including:

3916 (1) Functions formerly performed by the Office of School Readiness, including, but not  
 3917 limited to, Even Start;

3918 (2) Functions transferred to the department from the Department of Human Resources  
 3919 (now known as the Department of Human Services) relating to day-care centers, group  
 3920 day-care homes, family day-care homes, and other functions as agreed upon by the  
 3921 department and the Department of Human Resources (now known as the Department of  
 3922 Human Services) in accordance with Code Section 20-1A-8;

- 3923 (3) Functions transferred to the department from the Georgia Child Care Council  
 3924 pursuant to Code Section 20-1A-63; and  
 3925 (4) Functions relating to early childhood education programs transferred from the  
 3926 Department of Education by agreement in accordance with Code Section 20-1A-17."

3927 **SECTION 2-10.**

3928 Code Section 20-1A-4 of the Official Code of Georgia Annotated, relating to the powers and  
 3929 duties of the Department of Early Care and Learning, is amended by revising paragraph (8)  
 3930 as follows:

3931 "(8) To perform any other functions as agreed upon between the department and the  
 3932 Department of Human Resources (now known as the Department of Human Services),  
 3933 pursuant to Code Section 20-1A-8;"

3934 **SECTION 2-11.**

3935 Code Section 20-1A-8 of the Official Code of Georgia Annotated, relating to the transfer of  
 3936 functions, powers, personnel, equipment, and assets from Department of Human Resources  
 3937 to the Department of Early Care and Learning, is amended by revising subsections (a) and  
 3938 (b) as follows:

3939 "(a) Effective October 1, 2004, the department shall carry out all of the functions and  
 3940 exercise all of the powers formerly held by the Department of Human Resources (now  
 3941 known as the Department of Human Services) for the regulation and licensure of early care  
 3942 and education programs and any other functions as agreed upon by the department and the  
 3943 Department of Human Resources. Subject to subsection (c) of this Code section, all  
 3944 persons employed by and positions authorized for the Department of Human Resources to  
 3945 perform functions relating to the licensure and certification of early care and education  
 3946 programs and any other functions as agreed upon by the department and the Department  
 3947 of Human Resources on September 30, 2004, shall on October 1, 2004, be transferred to  
 3948 the department. All office equipment, furniture, and other assets in possession of the  
 3949 Department of Human Resources which are used or held exclusively or principally by  
 3950 personnel transferred under this subsection shall be transferred to the department on  
 3951 October 1, 2004.

3952 (b) Effective October 1, 2004, notwithstanding the advisory functions of the Georgia Child  
 3953 Care Council included in Code Section 20-1A-63, the department shall carry out the  
 3954 functions and exercise the powers formerly held by the Georgia Child Care Council under  
 3955 former Article 11 of Chapter 5 of Title 49. Subject to subsection (c) of this Code section,  
 3956 all persons employed by and positions authorized for the Georgia Child Care Council to  
 3957 perform functions relating to the recommendation of measures to improve the quality,



3958 availability, and affordability of child care in this state on September 30, 2004, shall on  
 3959 October 1, 2004, be transferred to the department. All office equipment, furniture, and  
 3960 other assets in possession of the Georgia Child Care Council or the Department of Human  
 3961 Resources, (now known as the Department of Human Services) which are used or held  
 3962 exclusively or principally by personnel transferred under this subsection shall be  
 3963 transferred to the department on October 1, 2004."

#### 3964 **SECTION 2-12.**

3965 Code Section 20-1A-9 of the Official Code of Georgia Annotated, relating to the authority  
 3966 to license and regulate day-care centers, group day-care homes, and family day-care homes  
 3967 transferred to the Department of Early Care and Learning, is amended as follows:

3968 "20-1A-9.

3969 The department shall succeed to all rights and responsibilities relating to licensure and  
 3970 regulation of day-care centers, group day-care homes, and family day-care homes,  
 3971 including such rules, regulations, policies, procedures, and pending and finalized  
 3972 administrative orders of the Department of Human Resources (now known as the  
 3973 Department of Human Services), the Georgia Child Care Council, and the Office of State  
 3974 Administrative Hearings, where applicable, which are in effect on September 30, 2004, and  
 3975 which relate to the functions transferred to the department pursuant to Code Section  
 3976 20-1A-8. Such rights, responsibilities, licenses issued pursuant to previous law,  
 3977 procedures, and orders shall remain in effect until amended, repealed, superseded, or  
 3978 nullified by the commissioner. Such rules, regulations, and policies shall remain in effect  
 3979 until amended, repealed, superseded, or nullified by the board."

#### 3980 **SECTION 2-13.**

3981 Code Section 24-9-101, of the Official Code of Georgia Annotated, relating to definitions  
 3982 relative to use of sign language and intermediary interpreter in administrative and judicial  
 3983 proceedings, is amended by revising paragraph (2) as follows:

3984 "(2) 'Department' means the Department of ~~Human Resources~~ Labor."

#### 3985 **SECTION 2-14.**

3986 Chapter 4 of Title 31 of the Official Code of Georgia Annotated, relating to the Council on  
 3987 Maternal and Infant Health, is repealed in its entirety and reserved.

**SECTION 2-15.**

3988

3989 Code Section 31-8-51 of the Official Code of Georgia Annotated, relating to definitions  
 3990 relative to the long-term care ombudsman, is amended by adding a new paragraph to read as  
 3991 follows:

3992 "(1.1) 'Department' means the Department of Human Services."

**SECTION 2-16.**

3993

3994 Code Section 31-8-82 of the Official Code of Georgia Annotated, relating to reporting abuse  
 3995 or exploitation of a resident in a long-term care facility, is amended by revising subsection  
 3996 (a) as follows:

3997 "(a) Any:

3998 (1) Administrator, manager, physician, nurse, nurse's aide, orderly, or other employee  
 3999 in a hospital or facility;

4000 (2) Medical examiner, dentist, osteopath, optometrist, chiropractor, podiatrist, social  
 4001 worker, coroner, clergyman, police officer, pharmacist, physical therapist, or  
 4002 psychologist; or

4003 (3) Employee of a public or private agency engaged in professional services to residents  
 4004 or responsible for inspection of long-term care facilities

4005 who has knowledge that any resident or former resident has been abused or exploited while  
 4006 residing in a long-term care facility shall immediately make a report as described in  
 4007 subsection (c) of this Code section by telephone or in person to the department. In the  
 4008 event that an immediate report to the department is not possible, the person shall make the  
 4009 report to the appropriate law enforcement agency. Such person shall also make a written  
 4010 report to the Department of Human ~~Resources~~ Services within 24 hours after making the  
 4011 initial report."

**SECTION 2-17.**

4012

4013 Code Section 34-15-2 of the Official Code of Georgia Annotated, relating to the July 2001  
 4014 transfer of the Division of Rehabilitation Services to the Department of Labor, is amended  
 4015 by revising subsection (a) as follows:

4016 "(a) The Division of Rehabilitation Services within the Department of Human Resources  
 4017 (now known as the Department of Human Services), including the disability adjudication  
 4018 section and the Roosevelt Warm Springs Institute for Rehabilitation, is transferred to the  
 4019 Department of Labor on July 1, 2001, and that division shall become the Division of  
 4020 Rehabilitation Services of the Department of Labor on July 1, 2001. The functions, duties,  
 4021 programs, institutions, and authority of the Division of Rehabilitation Services which were  
 4022 vested in the Department of Human Resources on June 30, 2001, are vested in the

4023 Department of Labor effective July 1, 2001. The division shall be administered by a  
 4024 director appointed by the Commissioner. The policy-making functions which were vested  
 4025 in the Board of Human Resources (now known as the Board of Human Services) or the  
 4026 Department of Human Resources pertaining to the Division of Rehabilitation Services are  
 4027 vested in the Commissioner of Labor effective July 1, 2001."

#### 4028 **SECTION 2-18.**

4029 Code Section 40-2-86.21 of the Official Code of Georgia Annotated, relating to special  
 4030 license plates promoting certain beneficial projects and supporting certain worthy agencies,  
 4031 funds, or nonprofit corporations, is amended by revising paragraphs (14) and (33) of  
 4032 subsection (o) as follows:

4033 "(14) A special license plate for the Thanks Mom and Dad Fund. The funds raised by the  
 4034 sale of this special license plate shall be disbursed to the Department of Human Resources  
 4035 Services to address the key needs of the state's older population or a nonprofit corporation  
 4036 organized to serve the needs of the state's older population."

4037 "(33) A special license plate supporting programs for the treatment of autism. The funds  
 4038 raised by the sale of this special license plate shall be disbursed to the Department of  
 4039 Human Resources Services for the support of programs for the treatment of autism in  
 4040 Georgia."

#### 4041 **SECTION 2-19.**

4042 Code Section 43-26-51 of the Official Code of Georgia Annotated, relating to the purpose  
 4043 of the "Georgia Qualified Medication Aide Act," is amended as follows:

4044 "43-26-51.

4045 The purpose of this article is to protect, promote, and preserve the public health, safety, and  
 4046 welfare through the delegation of certain activities performed by registered professional  
 4047 nurses and licensed practical nurses to persons who are certified as qualified medication  
 4048 aides and who are employed by and working in community living arrangements established  
 4049 by the Department of Human Resources Services pursuant to ~~paragraphs (15) and (16)~~  
 4050 paragraph (11) of subsection (b) of Code Section ~~37-1-20~~ 49-2-6."

#### 4051 **SECTION 2-20.**

4052 Code Section 43-26-52 of the Official Code of Georgia Annotated, relating to definitions  
 4053 relative to the "Georgia Qualified Medication Aide Act," is amended by revising paragraph  
 4054 (3) as follows:

4055 "(3) 'Community living arrangement' means any residence, whether operated for profit or  
 4056 not for profit, which undertakes through its ownership or management to provide or

4057 arrange for the provision of daily personal services, support, care, or treatment exclusively  
 4058 for two or more adults who are not related to the owner or administrator by blood or  
 4059 marriage which is established by the Department of Human ~~Resources~~ Services pursuant  
 4060 to paragraph ~~(16)~~ (11) of subsection (b) of Code Section ~~37-1-20~~ 49-2-6 and whose  
 4061 services are financially supported, in whole or part, by funds authorized through the  
 4062 ~~Division of Mental Health, Developmental Disabilities, and Addictive Diseases of the~~  
 4063 ~~Department of Human Resources~~ Department of Human Services. A community living  
 4064 arrangement is also referred to as a 'residence.'"

#### 4065 **SECTION 2-21.**

4066 Code Section 45-20-90 of the Official Code of Georgia Annotated, relating to definitions  
 4067 relative to random drug testing of public employees in high-risk jobs, is amended by revising  
 4068 paragraph (2) as follows:

4069 "(2) 'Established drug test' means the collection and testing of bodily fluids administered  
 4070 in a manner equivalent to that required by the Mandatory Guidelines for Federal Workplace  
 4071 Drug Testing Programs (HHS Regulations 53 Fed. Reg. 11979, et seq., as amended) or  
 4072 other professionally valid procedures approved by the ~~commissioner of human resources~~  
 4073 State Personnel Board."

#### 4074 **SECTION 2-22.**

4075 Code Section 46-1-5 of the Official Code of Georgia Annotated, relating to duties of the  
 4076 Department of Human Resources with regard to assistance to low or fixed income consumers  
 4077 of gas and electric service, is amended as follows:

4078 "46-1-5.

4079 By March 2, 1982, the Department of Human Resources (now known as the Department  
 4080 of Human Services) shall develop a program to identify those low or fixed income  
 4081 consumers of gas and electric utility service who, in the department's opinion, should  
 4082 benefit from public assistance in paying their bills for gas and electric service. The  
 4083 department shall also establish an efficient and economical method for distributing to such  
 4084 consumers all public assistance funds which will be made available, whether by  
 4085 appropriations of state or federal funds, grants, or otherwise. All gas and electric utilities  
 4086 shall cooperate fully with the department in developing and implementing its program.  
 4087 Nothing in this Code section shall limit the commission's authority to order regulatory  
 4088 alternatives which assist low or fixed income ratepayers."

**SECTION 2-23.**

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

"48-7-161.

As used in this article, the term:

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

(A) The Department of Human ~~Resources~~ Services and the Department of Behavioral Health with respect to collection of debts under ~~Chapter 9 of Title 37~~, Article 1 of Chapter 11 of Title 19, ~~and Code Section 49-4-15, and Chapter 9 of Title 37~~;

(B) The Georgia Student Finance Authority with respect to the collection of debts arising under Part 3 of Article 7 of Chapter 3 of Title 20;

(C) The Georgia Higher Education Assistance Corporation with respect to the collection of debts arising under Part 2 of Article 7 of Chapter 3 of Title 20;

(D) The State Medical Education Board with respect to the collection of debts arising under Part 6 of Article 7 of Chapter 3 of Title 20;

(E) The Department of Labor with respect to the collection of debts arising under Code Sections 34-8-254 and 34-8-255 and Article 5 of Chapter 8 of Title 34, with the exception of Code Sections 34-8-158 through 34-8-161; provided, however, that the Department of Labor establishes that the debtor has been afforded required due process rights by such Department of Labor with respect to the debt and all reasonable collection efforts have been exhausted;

(F) The Department of Corrections with respect to probation fees arising under Code Section 42-8-34 and restitution or reparation ordered by a court as a part of the sentence imposed on a person convicted of a crime who is in the legal custody of the department;

(G) The State Board of Pardons and Paroles with respect to restitution imposed on a person convicted of a crime and subject to the jurisdiction of the board; and

(H) The Department of Juvenile Justice with respect to restitution imposed on a juvenile for a delinquent act which would constitute a crime if committed by an adult.

(2) 'Debt' means any liquidated sum due and owing any claimant agency, which sum has accrued through contract, subrogation, tort, or operation of law regardless of whether there is an outstanding judgment for the sum, any sum which is due and owing any person and is enforceable by the Department of Human ~~Resources~~ Services pursuant to subsection (b) of Code Section 19-11-8, or any sum of restitution or reparation due pursuant to a sentence imposed on a person convicted of a crime and sentenced to restitution or reparation and probation.

4124 (3) 'Debtor' means any individual owing money to or having a delinquent account with  
 4125 any claimant agency, which obligation has not been adjudicated as satisfied by court  
 4126 order, set aside by court order, or discharged in bankruptcy.

4127 (4) 'Refund' means the Georgia income tax refund which the department determines to  
 4128 be due any individual taxpayer."

4129 **SECTION 2-24.**

4130 Code Section 49-4A-5 of the Official Code of Georgia Annotated, relating to transfer of  
 4131 functions and employees of the Division of Youth Services, is amended by revising  
 4132 subsection (b) as follows:

4133 "(b) Any employees of the Department of Juvenile Justice who became so employed by  
 4134 virtue of their transfer from the Division of Youth Services of the Department of Human  
 4135 Resources (now known as the Department of Human Services) on June 30, 1992, shall  
 4136 retain their compensation and benefits and such may not be reduced. Transferred  
 4137 employees who were subject to the State Merit System of Personnel Administration shall  
 4138 retain all existing rights under the State Merit System of Personnel Administration.  
 4139 Retirement rights of such transferred employees existing under the Employees' Retirement  
 4140 System of Georgia or other public retirement systems on July 1, 1992, shall not be impaired  
 4141 or interrupted by the transfer of such employees and membership in any such retirement  
 4142 system shall continue in the same status possessed by the transferred employees on June  
 4143 30, 1992. Accrued annual and sick leave possessed by said employees on June 30, 1992,  
 4144 shall be retained by said employees as employees of the department."

4145 **SECTION 2-25.**

4146 Code Section 49-5-60 of the Official Code of Georgia Annotated, relating to definitions  
 4147 relative to employees' record checks for day-care centers, is amended by revising paragraph  
 4148 (1) as follows:

4149 "(1) 'Center' means a ~~child-caring institution or child-placing agency~~ child welfare  
 4150 agency, as defined in subsection (a) of Code Section 49-5-12, which is required to be  
 4151 licensed or registered under Article 1 of this chapter."

4152 **SECTION 2-26.**

4153 Code Section 49-5-69.1 of the Official Code of Georgia Annotated, relating to fingerprint  
 4154 and preliminary records check for foster homes, is amended as follows:

4155 "49-5-69.1.

4156 (a) No licensed ~~child-placing agency~~ child welfare agency, as defined in ~~this chapter~~  
 4157 subsection (a) of Code Section 49-5-12, shall place a child in a foster care home unless the

4158 foster parent or parents of the home and other adult persons that reside in the home or  
4159 provide care to children placed in the home have received a satisfactory preliminary  
4160 records check determination. Additionally, no child shall continue to be placed in such  
4161 foster care home unless the foster parent or parents also subsequently receive a satisfactory  
4162 fingerprint records check determination. A ~~child-placing agency~~ child welfare agency or  
4163 any applicant for a license for such an agency shall be required to submit to the department  
4164 a preliminary records check application and a records check application for the foster  
4165 parent or parents of any foster care home used by the agency and a preliminary records  
4166 check application for any other adult persons that reside in the home or provide care to  
4167 children placed in the home. In lieu of such applications, the agency or license applicant  
4168 may submit evidence, satisfactory to the department, that within the immediately preceding  
4169 12 months such foster parent or parents or other adult persons have received a satisfactory  
4170 fingerprint records check determination or a satisfactory preliminary records check  
4171 determination.

4172 (b) After receiving or obtaining the fingerprint records check determinations or the  
4173 preliminary records check determinations, the department shall notify in writing the agency  
4174 or license applicant as to each person for whom an application was received regarding  
4175 whether the department's determinations were satisfactory or unsatisfactory. If any such  
4176 determinations are unsatisfactory, such homes shall not be used by the ~~child-placing agency~~  
4177 child welfare agency as foster care homes.

4178 (c) The department shall have the authority to take any of the actions enumerated in  
4179 subsection (c) of Code Section ~~31-2-6~~ 49-2-17 if a licensed ~~child-placing agency~~ child  
4180 welfare agency or an applicant for such a license violates any provision of this Code  
4181 section.

4182 (d) An executive director of a ~~child-placing agency~~ child welfare agency that uses a foster  
4183 care home with a foster parent or parents or other adult persons referenced in this Code  
4184 section whom the executive director knows or should reasonably know to have a criminal  
4185 record shall be guilty of a misdemeanor.

4186 (e) In addition to any other requirement established by law, the submission of fingerprints  
4187 shall be a prerequisite to the issuance of a license or authorization for the operation of a  
4188 foster home or to serve as foster parents as provided in this article. Such fingerprints shall  
4189 be used for the purposes of fingerprint checks by the Georgia Crime Information Center  
4190 and the Federal Bureau of Investigation."

**SECTION 2-27.**

4191  
 4192 Code Section 49-6-84 of the Official Code of Georgia Annotated, relating to the authority  
 4193 of the Department of Human Resources to promulgate rules and regulations under the "Adult  
 4194 Day Center for Aging Adults Licensure Act," is amended as follows:

4195 "49-6-84.

4196 The department is authorized to promulgate rules and regulations to implement this article  
 4197 utilizing the public rule-making process to elicit input from consumers, providers, and  
 4198 advocates. The department is further authorized to issue, deny, suspend, or revoke licenses  
 4199 or take other enforcement actions against licensees or applicants as provided in Code  
 4200 Section ~~31-2-6~~ 49-2-17. All rules and regulations and any enforcement actions initiated  
 4201 by the department shall comply with the requirements of Chapter 13 of Title 50, the  
 4202 'Georgia Administrative Procedure Act.'

**SECTION 2-28.**

4203  
 4204 Code Section 49-8-4 of the Official Code of Georgia Annotated, relating to administration  
 4205 of "The Economic Rehabilitation Act of 1975," is amended by revising subsection (a) as  
 4206 follows:

4207 "(a) For purposes of administration, responsibility for the coordination of community  
 4208 services and fiscal accountability shall be determined by the commissioner of human  
 4209 resources services.

**SECTION 2-29.**

4210  
 4211 Code Section 50-5-136 of the Official Code of Georgia Annotated, relating to the powers and  
 4212 authority of the State Use Council, is amended by revising paragraph (4) of subsection (b)  
 4213 as follows:

4214 "(4) To oversee and assist in the development of guidelines for the certification of  
 4215 community based rehabilitation programs and training centers in the State of Georgia. The  
 4216 intent of these guidelines shall be to evaluate the qualifications and capabilities of  
 4217 community based rehabilitation programs and training centers interested in certification;  
 4218 to determine criteria for quality, efficiency, timeliness, and cost effectiveness in the  
 4219 production of goods, wares, merchandise, and services to be procured under the state use  
 4220 plan and purchased by the State of Georgia; and to establish a certification process which  
 4221 shall enable community based rehabilitation programs and training centers qualified under  
 4222 this process to compete in procurement activities provided for by this part. All community  
 4223 based rehabilitation programs and training centers which are certified by the commissioner  
 4224 of human resources (now known as the commissioner of human services for these



4225 purposes) as of February 8, 1994, shall not have to undergo the certification evaluation and  
 4226 approval process until 24 months from February 8, 1994;"

4227 **PART III**  
 4228 Department of Behavioral Health.

4229 **SECTION 3-1.**

4230 Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by  
 4231 revising Chapter 1 and Article 1 of Chapter 2, relating to general provisions and  
 4232 administration of mental health, developmental disabilities, addictive diseases, and other  
 4233 disability services, respectively, as follows:

4234 "CHAPTER 1  
 4235 ARTICLE 1

4236 37-1-1.

4237 As used in this title, the term:

4238 (1) 'Addictive disease' means the abuse of, addiction to, or dependence upon alcohol or  
 4239 other drugs and includes substance abuse.

4240 (2) 'Board' means the Board of ~~Human Resources~~ Behavioral Health.

4241 (3) 'Commissioner' means the commissioner of ~~human resources~~ behavioral health.

4242 (4) 'Community service board' means a public mental health, developmental disabilities,  
 4243 and addictive diseases board established pursuant to Code Section 37-2-6.

4244 (5) 'Consumer' means a natural person who has been or is a recipient of disability  
 4245 services as defined in Code Section 37-2-2.

4246 (6) 'County board of health' means a county board of health established in accordance  
 4247 with Chapter 3 of Title 31 and includes its duly authorized agents.

4248 (7) 'Department' means the Department of ~~Human Resources~~ Behavioral Health and  
 4249 includes its duly authorized agents and designees.

4250 ~~(8) 'Division' means the Division of Mental Health, Developmental Disabilities, and~~  
 4251 ~~Addictive Diseases.~~

4252 ~~(9)~~(8) 'Peace officer' means any federal, city, or county police officer, any officer of the  
 4253 Georgia State Patrol, or any sheriff or deputy sheriff.

4254 ~~(10)~~(9) 'Penal offense' means a violation of a law of the United States, this state, or a  
 4255 political subdivision thereof for which the offender may be confined in a state prison or  
 4256 a city or county jail or any other penal institution.

4257 ~~(11)~~(10) 'Physician' means any person duly authorized to practice medicine in this state  
4258 under Chapter 34 of Title 43.

4259 ~~(12)~~(11) 'Psychologist' means any person authorized under the laws of this state to  
4260 practice as a licensed psychologist as set forth in paragraph (3) of Code Section 43-39-1.

4261 ~~(13)~~(12) 'Regional board' means a regional ~~mental health, mental retardation, and~~  
4262 ~~substance abuse~~ board established in accordance with Code Section 37-2-4.1 as that Code  
4263 section existed on June 30, 2002.

4264 ~~(14)~~(13) 'Regional coordinator' means an employee of the department who acts as the  
4265 department's agent and designee to manage community ~~and hospital~~ services for  
4266 consumers of disability services within a mental health, developmental disabilities, and  
4267 addictive diseases region established in accordance with Code Section 37-2-3.

4268 ~~(15)~~(14) 'Regional office' means a ~~Division of Mental Health, Developmental~~  
4269 ~~Disabilities, and Addictive Diseases of the Department of Human Resources~~ an office  
4270 created pursuant to Code Section 37-2-4.1. Such office shall serve as the entity for the  
4271 administration of disability services in a region.

4272 ~~(16)~~(15) 'Regional planning board' means a ~~mental health, developmental disabilities,~~  
4273 ~~and addictive diseases~~ planning board established in accordance with Code Section  
4274 37-2-4.1.

4275 ~~(17)~~(16) 'Regional services administrator' means an employee of the department who,  
4276 under the supervision of the regional coordinator, manages the purchase or authorization  
4277 of services, or both, for consumers of disability services, the assessment and coordination  
4278 of services, and ongoing monitoring and evaluation of services provided within a ~~mental~~  
4279 ~~health, developmental disabilities, and addictive diseases~~ region established in  
4280 accordance with Code Section 37-2-3.

4281 ~~(18)~~(17) 'Regional state hospital administrator' means the chief administrative officer of  
4282 a state owned or state operated hospital and the state owned or operated community  
4283 programs in a region. The regional state hospital administrator, ~~under the supervision of~~  
4284 ~~the regional coordinator~~, has overall management responsibility for the regional state  
4285 hospital and manages services provided by employees of the regional state hospital and  
4286 employees of state owned or operated community programs within a mental health,  
4287 developmental disabilities, and addictive diseases region established in accordance with  
4288 Code Section 37-2-3.

4289 ~~(19)~~(18) 'Resident' means a person who is a legal resident of the State of Georgia.

4290 37-1-2.

4291 (a) The General Assembly finds that the state has a need to continually improve its system  
4292 for providing effective, efficient, and quality mental health, developmental disability, and

4293 addictive disease services. ~~The General Assembly also finds that the needs of the publicly~~  
 4294 ~~funded mental health, developmental disability, and addictive disease system and the state~~  
 4295 ~~can best be met through reorganizing the regional mental health, mental retardation, and~~  
 4296 ~~substance abuse boards and certain functions of the Department of Human Resources.~~  
 4297 Further, the General Assembly finds that a comprehensive range of quality services and  
 4298 opportunities is vitally important to the existence and well-being of individuals with mental  
 4299 health, developmental disability, or addictive disease needs and their families. The General  
 4300 Assembly further finds that the state has an obligation and a responsibility to develop and  
 4301 implement planning and service delivery systems which focus on a core set of consumer  
 4302 oriented, community based values and principles which include, but are not limited to, the  
 4303 following:

- 4304 (1) Consumers and families should have choices about services and providers and should  
 4305 have substantive input into the planning and delivery of all services;
- 4306 (2) A single point of accountability should exist for fiscal, service, and administrative  
 4307 issues to ensure better coordination of services among all programs and providers and to  
 4308 promote cost-effective, efficient service delivery and administration;
- 4309 (3) The system should be appropriately comprehensive and adaptive to allow consumers  
 4310 and their families to access the services they desire and need;
- 4311 (4) Public programs are the foundation of the service planning and delivery system and  
 4312 they should be valued and nurtured; at the same time, while assuring comparable  
 4313 standards of quality, private sector involvement should be increased to allow for  
 4314 expanded consumer choice and improved cost effectiveness;
- 4315 (5) Planning should ~~reside~~ begin at the local level, ~~with the primary authority vested in~~  
 4316 and include local government, consumers, families, advocates, and other interested local  
 4317 parties;
- 4318 (6) The system should ensure that the needs of consumers who are most in need are met  
 4319 at the appropriate service levels; at the same time, prevention strategies should be  
 4320 emphasized for those disabilities which are known to be preventable;
- 4321 (7) The system should be designed to provide the highest quality of services utilizing  
 4322 flexibility in funding, incentives, and outcome evaluation techniques which reinforce  
 4323 quality, accountability, efficiency, and consumer satisfaction;
- 4324 (8) The functions of service planning, coordination, contracting, resource allocation, and  
 4325 consumer assessment should be separated from the actual treatment, habilitation, and  
 4326 prevention services provided by contractors;
- 4327 (9) Consumers and families should have a single, community based point of entry into  
 4328 the system;

4329 (10) Consumers, staff, providers, and regional planning board and community service  
 4330 board members should receive ongoing training and education and should have access  
 4331 to key management resources such as information systems and technical and professional  
 4332 support services; and

4333 (11) The department is responsible for ensuring the appropriate use of state, federal, and  
 4334 other funds to provide quality services for individuals with mental health, developmental  
 4335 disabilities, or addictive disease needs who are served by the public system and to protect  
 4336 consumers of these services from abuse and maltreatment.

4337 (b) Local governments, specifically county governing authorities, have provided  
 4338 outstanding leadership and support for mental health, developmental disability, and  
 4339 addictive disease programs, and the General Assembly finds that their investments, both  
 4340 personal and capital, should be valued and utilized in any improved system. As such, the  
 4341 state and any new governing structure should take special precautions to ensure that the  
 4342 county governing authorities have an expanded level of input into decision making and  
 4343 resource allocation and that any services or programs should continue to use and expand  
 4344 their use of county facilities and resources wherever appropriate and possible.

4345 (c) The purpose of this chapter and Chapter 2 of this title is to provide for a comprehensive  
 4346 and improved mental health, developmental disability, and addictive disease services  
 4347 planning and delivery system in this state which will develop and promote the essential  
 4348 public interests of the state and its citizens. The provisions of this chapter and Chapter 2  
 4349 of this title shall be liberally construed to achieve their purposes.

4350 37-1-3.

4351 (a) There is created the Board of Behavioral Health which shall establish the general  
 4352 policy to be followed by the Department of Behavioral Health. The powers, functions, and  
 4353 duties of the Board of Human Resources as they existed on June 30, 2009, with regard to  
 4354 the Division of Mental Health, Developmental Disabilities, and Addictive Diseases are  
 4355 transferred to the Board of Behavioral Health effective July 1, 2009. The board shall  
 4356 consist of nine members appointed by the Governor and confirmed by the Senate.

4357 (b) The Governor shall designate the initial terms of the members of the board as follows:  
 4358 three members shall be appointed for one year; three members shall be appointed for two  
 4359 years; and three members shall be appointed for three years. Thereafter, all succeeding  
 4360 appointments shall be for three-year terms from the expiration of the previous term.

4361 (c) Vacancies in office shall be filled by appointment by the Governor in the same manner  
 4362 as the appointment to the position on the board which becomes vacant. An appointment  
 4363 to fill a vacancy other than by expiration of a term of office shall be for the balance of the  
 4364 unexpired term.

4365 (d) Members of the board may be removed from office under the same conditions for  
4366 removal from office of members of professional licensing boards provided in Code Section  
4367 43-1-17.

4368 (e) There shall be a chairperson of the board elected by and from the membership of the  
4369 board who shall be the presiding officer of the board.

4370 (f) The members of the board shall receive a per diem allowance and expenses as shall be  
4371 set and approved by the Office of Planning and Budget in conformance with rates and  
4372 allowances set for members of other state boards.

4373 37-1-4.

4374 (a) There is created a Department of Behavioral Health. The powers, functions, and duties  
4375 of the Department of Human Resources as they existed on June 30, 2009, relating to the  
4376 Division of Mental Health, Developmental Disabilities, and Addictive Diseases are  
4377 transferred to the Department of Behavioral Health effective July 1, 2009.

4378 (b) There is created the position of commissioner of behavioral health. The commissioner  
4379 shall be the chief administrative officer of the department and be both appointed and  
4380 removed by the board, subject to the approval of the Governor. Subject to the general  
4381 policy established by the board, the commissioner shall supervise, direct, account for,  
4382 organize, plan, administer, and execute the functions vested in the department.

4383 37-1-5.

4384 (a) The Department of Behavioral Health shall succeed to all rules, regulations, policies,  
4385 procedures, and administrative orders of the Department of Human Resources that are in  
4386 effect on June 30, 2009, or scheduled to go into effect on or after July 1, 2009, and which  
4387 relate to the functions transferred to the Department of Behavioral Health pursuant to Code  
4388 Section 37-1-4 and shall further succeed to any rights, privileges, entitlements, obligations,  
4389 and duties of the Department of Human Resources that are in effect on June 30, 2009,  
4390 which relate to the functions transferred to the Department of Behavioral Health pursuant  
4391 to Code Section 37-1-4. Such rules, regulations, policies, procedures, and administrative  
4392 orders shall remain in effect until amended, repealed, superseded, or nullified by the  
4393 Department of Behavioral Health by proper authority or as otherwise provided by law.

4394 (b) The rights, privileges, entitlements, and duties of parties to contracts, leases,  
4395 agreements, and other transactions entered into before July 1, 2009, by the Department of  
4396 Human Resources which relate to the functions transferred to the Department of Behavioral  
4397 Health pursuant to Code Section 37-1-4 shall continue to exist; and none of these rights,  
4398 privileges, entitlements, and duties are impaired or diminished by reason of the transfer of  
4399 the functions to the Department of Behavioral Health. In all such instances, the

4400 Department of Behavioral Health shall be substituted for the Department of Human  
 4401 Resources, and the Department of Behavioral Health shall succeed to the rights and duties  
 4402 under such contracts, leases, agreements, and other transactions.

4403 (c) All persons employed by the Department of Human Resources in capacities which  
 4404 relate to the functions transferred to the Department of Behavioral Health pursuant to Code  
 4405 Section 37-1-4 on June 30, 2009, shall, on July 1, 2009, become employees of the  
 4406 Department of Behavioral Health in similar capacities, as determined by the commissioner  
 4407 of behavioral health. Such employees shall be subject to the employment practices and  
 4408 policies of the Department of Behavioral Health on and after July 1, 2009, but the  
 4409 compensation and benefits of such transferred employees shall not be reduced as a result  
 4410 of such transfer. Employees who are subject to the rules of the State Personnel Board and  
 4411 thereby under the State Merit System of Personnel Administration and who are transferred  
 4412 to the department shall retain all existing rights under the State Merit System of Personnel  
 4413 Administration. Retirement rights of such transferred employees existing under the  
 4414 Employees' Retirement System of Georgia or other public retirement systems on June 30,  
 4415 2009, shall not be impaired or interrupted by the transfer of such employees and  
 4416 membership in any such retirement system shall continue in the same status possessed by  
 4417 the transferred employees on June 30, 2009. Accrued annual and sick leave possessed by  
 4418 said employees on June 30, 2009, shall be retained by said employees as employees of the  
 4419 Department of Behavioral Health.

4420 (d) On July 1, 2009, the Department of Behavioral Health shall receive custody of the state  
 4421 owned real property in the custody of the Department of Human Resources on June 30,  
 4422 2009, and which pertains to the functions transferred to the Department of Behavioral  
 4423 Health pursuant to Code Section 37-1-4.

4424 ARTICLE 2

4425 37-1-20.

4426 ~~(a) The Division of Mental Health, Developmental Disabilities, and Addictive Diseases~~  
 4427 ~~shall be a division of the department and shall be managed by a director whose~~  
 4428 ~~qualifications meet standards set by the board.~~

4429 ~~(b) The department, through the division, shall:~~

4430 (1) Establish, administer, and supervise the state programs for mental health,  
 4431 developmental disabilities, and addictive diseases;

4432 (2) Direct, supervise, and control the medical and physical care, treatment, and  
 4433 rehabilitation provided by the institutions and programs under its control, management,  
 4434 or supervision;

- 4435 (3) Have authority to contract for services with community service boards, private  
4436 agencies, and other public entities for the provision of services within a service area so  
4437 as to provide an adequate array of services; and choice of providers for consumers; and  
4438 to comply with the applicable federal laws, rules, and regulations related to public or  
4439 private hospitals; hospital authorities; medical schools and training and educational  
4440 institutions; departments and agencies of this state; county or municipal governments;  
4441 any person, partnership, corporation, or association, whether public or private; and the  
4442 United States government or the government of any other state;
- 4443 (4) Establish and support programs for the training of professional and technical  
4444 personnel as well as regional planning boards and community service boards;
- 4445 (5) Have authority to conduct research into the causes and treatment of disability and  
4446 into the means of effectively promoting mental health;
- 4447 (6) Assign specific responsibility to one or more units of the ~~division~~ department for the  
4448 development of a disability prevention program. The objectives of such program shall  
4449 include, but are not limited to, monitoring of completed and ongoing research related to  
4450 the prevention of disability, implementation of programs known to be preventive, and  
4451 testing, where practical, of those measures having a substantive potential for the  
4452 prevention of disability;
- 4453 (7) Establish a system for regional administration of mental health, developmental  
4454 disability, and addictive disease services in institutions and in the community ~~under the~~  
4455 ~~supervision of a regional coordinator~~;
- 4456 (8) Make and administer budget allocations to regional offices ~~of the division~~ established  
4457 by the board pursuant to Code Section 37-2-4.1 to fund the operation of mental health,  
4458 developmental disabilities, and addictive diseases facilities and programs;
- 4459 (9) Coordinate in consultation with providers, professionals, and other experts the  
4460 development of appropriate outcome measures for client centered service delivery  
4461 systems;
- 4462 (10) Establish, operate, supervise, and staff programs and facilities for the treatment of  
4463 disabilities throughout this state;
- 4464 (11) Disseminate information about available services and the facilities through which  
4465 such services may be obtained;
- 4466 (12) Supervise the regional office's exercise of its responsibility and authority concerning  
4467 funding and delivery of disability services;
- 4468 (13) Supervise the regional offices concerning the receipt and administration of grants,  
4469 gifts, moneys, and donations for purposes pertaining to mental health, developmental  
4470 disabilities, and addictive diseases;

4471 (14) Supervise the ~~regional offices concerning making~~ administration of contracts with  
 4472 any hospital, community service board, or any public or private providers without regard  
 4473 to regional or state boundaries for the provision of disability services and in making and  
 4474 entering into all contracts necessary or incidental to the performance of the duties and  
 4475 functions of the ~~division~~ department and the regional offices; and

4476 (15) Regulate the delivery of care, including behavioral interventions and medication  
 4477 administration by licensed staff, or certified staff as determined by the ~~division~~  
 4478 department, within residential settings serving only persons who are receiving services  
 4479 authorized or financed, in whole or in part, by the ~~division~~; department.

4480 ~~(16) Classify 'community living arrangements' and 'host homes' for persons whose~~  
 4481 ~~services are financially supported, in whole or in part, by funds authorized through the~~  
 4482 ~~Division of Mental Health, Developmental Disabilities, and Addictive Diseases of the~~  
 4483 ~~Department of Human Resources. As used in this Code section, the term:~~

4484 ~~(A) 'Community living arrangement' means any residence, whether operated for profit~~  
 4485 ~~or not, which undertakes through its ownership or management to provide or arrange~~  
 4486 ~~for the provision of housing, food, one or more personal services, supports, care, or~~  
 4487 ~~treatment exclusively for two or more persons who are not related to the owner or~~  
 4488 ~~administrator of the residence by blood or marriage.~~

4489 ~~(B) 'Host home' means a private residence in a residential area in which the occupant~~  
 4490 ~~owner or lessee provides housing and provides or arranges for the provision of food,~~  
 4491 ~~one or more personal services, supports, care, or treatment exclusively for one or two~~  
 4492 ~~persons who are not related to the occupant owner or lessee by blood or marriage. A~~  
 4493 ~~host home shall be occupied by the owner or lessee, who shall not be an employee of~~  
 4494 ~~the same community provider which provides the host home services by contract with~~  
 4495 ~~the division. The division shall approve and enter into agreements with community~~  
 4496 ~~providers which, in turn, contract with host homes. The occupant owner or lessee shall~~  
 4497 ~~not be the guardian of any person served or of their property nor the agent in such~~  
 4498 ~~person's advance directive for health care. The placement determination for each~~  
 4499 ~~person placed in a host home shall be made according to such person's choice as well~~  
 4500 ~~as the individual needs of such person in accordance with the requirements of Code~~  
 4501 ~~Section 37-3-162, 37-4-122, or 37-7-162, as applicable to such person; and~~

4502 ~~(17) Provide guidelines for and oversight of host homes, which may include, but not be~~  
 4503 ~~limited to, criteria to become a host home, requirements relating to physical plants and~~  
 4504 ~~supports, placement procedures, and ongoing oversight requirements.~~

4505 ~~(e)~~(b) The department shall:

4506 (1) Establish a unit of the department which shall receive and consider complaints from  
 4507 individuals receiving services, make recommendations to the ~~director of the division~~



4508 commissioner regarding such complaints, and ensure that the rights of individuals  
4509 receiving services are fully protected;

4510 (2) Exercise all powers and duties provided for in this title or which may be deemed  
4511 necessary to effectuate the purposes of this title; and

4512 (3) Assign specific responsibility to one or more units of the ~~division~~ department for the  
4513 development of programs designed to serve disabled infants, children, and youth. To the  
4514 extent practicable, such units shall cooperate with the Georgia Department of Education  
4515 and the University System of Georgia in developing such programs; ~~and~~

4516 ~~(4) Classify and license community living arrangements, as defined in paragraph (16) of~~  
4517 ~~subsection (b) of this Code section, in accordance with the rules and regulations~~  
4518 ~~promulgated by the department for the licensing of community living arrangements and~~  
4519 ~~the enforcement of licensing requirements. To be eligible for licensing as a community~~  
4520 ~~living arrangement, the residence and services provided must be integrated within the~~  
4521 ~~local community. All community living arrangements licensed by the department shall~~  
4522 ~~be subject to the provisions of Code Sections 31-2-6 and 31-7-2.2. No person, business~~  
4523 ~~entity, corporation, or association, whether operated for profit or not for profit, may~~  
4524 ~~operate a community living arrangement without first obtaining a license or provisional~~  
4525 ~~license from the department. A license issued under this article is not assignable or~~  
4526 ~~transferable.~~

4527 37-1-21.

4528 (a) The department is designated and empowered as the agency of this state responsible  
4529 for supervision and administrative control of: state facilities for the treatment of mental  
4530 illness or the habilitation and treatment of individuals with developmental disabilities; ~~state~~  
4531 ~~hospitals for the treatment of tubercular patients;~~ programs for the care, custody, and  
4532 treatment of addictive disease; and other facilities, institutions, or programs which now or  
4533 hereafter come under the supervision and administrative control of the department. With  
4534 respect to all such facilities, institutions, or programs the department shall have the  
4535 following powers and duties:

4536 (1) To create all necessary offices, appoint and remove all officers of such facilities,  
4537 institutions, or programs, prescribe and change the duties of such officers from time to  
4538 time, and fix their salaries as provided for by the pay plan covering positions under the  
4539 State Merit System of Personnel Administration and in accordance with rules and  
4540 regulations of the State Personnel Board, except that the commissioner shall not be  
4541 subject to the State Merit System of Personnel Administration or the rules and regulations  
4542 of the State Personnel Board. The department shall discharge and cause to be prosecuted  
4543 any officer or other person who shall assault any patient in any of such facilities or

4544 institutions or who shall knowingly use toward any such patient any other or greater force  
4545 than the occasion may require;

4546 (2) To refuse or accept and hold in trust for any such facility, institution, or program any  
4547 grant or devise of land or bequest or donation of money or other property for the  
4548 particular use specified or, if no use is specified, for the general use of such facility,  
4549 institution, or program;

4550 (3) To bring suit in its name for any claims which any such facility or institution may  
4551 have, however arising;

4552 (4) To appoint police of such facilities, institutions, or programs who are authorized,  
4553 while on the grounds or in the buildings of the respective facilities, institutions, or  
4554 programs to make arrests with the same authority, power, privilege, and duties as the  
4555 sheriffs of the respective counties in which such facilities, institutions, or programs are  
4556 situated. If because of the contagious or infectious nature of the disease of persons  
4557 arrested facilities are not available for their detention, such police shall be authorized to  
4558 confine such persons within the respective facilities, institutions, or programs pending  
4559 trial as provided in other cases. After trial and conviction of any such person, he or she  
4560 shall be sentenced to serve his or her term of sentence in the secured ward of the facility,  
4561 institution, or program; and

4562 (5) To have full authority to receive patients ordered admitted to such facilities,  
4563 institutions, or programs pursuant to any law, to receive any voluntary patients, to  
4564 discharge such patients pursuant to law, to contract with patients or other persons acting  
4565 on behalf of patients or legally responsible therefor, and in general to exercise any power  
4566 or function with respect to patients provided by law. It is the intent of the General  
4567 Assembly to provide always the highest quality of diagnosis, treatment, custody, and care  
4568 consistent with medical, therapeutic, and habilitative evidence based practice and  
4569 knowledge. It is the further intent of the General Assembly that the powers and duties  
4570 of the department with respect to patients shall be administered by persons properly  
4571 trained professionally for the exercise of their duties, consistent with the intention  
4572 expressed in this Code section.

4573 (b) The board is empowered to prescribe all rules and regulations for the management of  
4574 such facilities, institutions, and programs not conflicting with the law.

4575 37-1-22.

4576 The board shall adopt and promulgate written rules, regulations, and standards as may be  
4577 deemed necessary to effectuate the purposes of this title and which shall be the basis of  
4578 state financial participation in mental health, developmental disabilities, and addictive  
4579 diseases programs.

4580 37-1-23.

4581 The board is directed to prescribe rules of practice and procedure in order to implement this  
4582 chapter. The department ~~and the division are~~ is directed to make the board's and the  
4583 department's rules available for distribution.

4584 37-1-24.

4585 No provision in this title shall require the department or any facility or private facility or  
4586 any community service board to utilize a physician in lieu of a psychologist or a  
4587 psychologist in lieu of a physician in performing functions under this title even though this  
4588 title authorizes either a physician or a psychologist to perform the function.

4589 37-1-25.

4590 The department is authorized to purchase land or lands adjacent to or near lands now under  
4591 the control of the department where, in the opinion of the department, the land is needed  
4592 for the benefit of one of the institutions under its control and management, to pay for such  
4593 land out of any funds which may be available for such purpose, and to take title to land so  
4594 purchased in the name of the State of Georgia for the use of the department.

4595 37-1-26.

4596 (a) The department shall sell, to the best advantage, all surplus products of the Central  
4597 State Hospital or other institutions under the control and supervision of the department and  
4598 shall apply the proceeds thereof to the maintenance of the institution from which such  
4599 surplus products are received. Should any surplus funds arise from this source, they shall  
4600 be paid into the state treasury annually; and the department shall, at the end of each quarter,  
4601 make a detailed report of all such transactions to the Governor.

4602 (b) It is not the intention of this Code section to encourage competition in any way by the  
4603 state, its institutions, agencies, departments or branches, or other subdivisions with the  
4604 individual, private farmers of this state, or others, in the production and sale of agricultural  
4605 or industrial commodities or products in due course of commerce.

4606 ARTICLE 3

4607 37-1-40.

4608 All rules and regulations of the Board of ~~Human Resources~~ Behavioral Health shall be  
4609 adopted pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

## 4610 ARTICLE 4

4611 37-1-50.

4612 (a) No license, permit, or certificate or other similar right shall be revoked or suspended  
 4613 without opportunity for a hearing as provided in Chapter 13 of Title 50, the 'Georgia  
 4614 Administrative Procedure Act.' Any such hearing or appeal related thereto shall be  
 4615 conducted in accordance with such Act.

4616 (b) The department is authorized and empowered to employ and appoint hearing  
 4617 examiners to conduct hearings, issue compulsory process, administer oaths, and submit  
 4618 their findings and recommendations to the appointing agency; provided, however, that any  
 4619 such examiner shall be a member of the State Bar of Georgia in good standing.

4620 37-1-51.

4621 Reserved.

4622 37-1-52.

4623 Reserved.

4624 37-1-53.

4625 Notwithstanding any other provision of law to the contrary, the department is authorized  
 4626 by regulation to classify as confidential and privileged documents, reports, and other  
 4627 information and data obtained by them from persons, firms, corporations, municipalities,  
 4628 counties, and other public authorities and political subdivisions where such matters relate  
 4629 to secret processes, formulas, and methods or where such matters were obtained or  
 4630 furnished on a confidential basis. All matters so classified shall not be subject to public  
 4631 inspection or discovery and shall not be subject to production or disclosure in any court of  
 4632 law or elsewhere until and unless the judge of the court of competent jurisdiction, after in  
 4633 camera inspection, determines that the public interest requires such production and  
 4634 disclosure or that such production and disclosure may be necessary in the interest of justice.  
 4635 This subsection shall not apply to clinical records maintained pursuant to Code Sections  
 4636 37-3-166, 37-3-167, 37-4-125, 37-4-126, 37-7-166, and 37-7-167.

## 4637 ARTICLE 5

## 4638 Part 1

4639 37-1-70.

4640 As used in this ~~chapter~~ part, the term:

4641 (1) 'Inspection warrant' means a warrant authorizing a search or inspection of private  
 4642 property where such a search or inspection is one that is necessary for the enforcement  
 4643 of a 'public mental health law.'

4644 (2) 'Mental health law' means Code Sections 37-3-7, 37-3-8, and 37-4-4, Chapter 6 of  
 4645 this title, and any rule or regulation duly promulgated thereunder.

4646 37-1-71.

4647 The commissioner or the commissioner's delegate, in addition to other procedures now or  
 4648 hereafter provided, may obtain an inspection warrant under the conditions specified in this  
 4649 chapter. Such warrant shall authorize the commissioner or the commissioner's delegate to  
 4650 conduct a search or inspection of property either with or without the consent of the person  
 4651 whose property is to be searched or inspected if such search or inspection is one that is  
 4652 elsewhere authorized under the rules and regulations duly promulgated under this title.

4653 37-1-72.

4654 (a) Inspection warrants shall be issued only by a judge of a court of record whose  
 4655 territorial jurisdiction encompasses the property to be inspected.

4656 (b) The issuing judge shall issue the warrant when ~~he~~ the judge is satisfied that the  
 4657 following conditions are met:

4658 (1) The one seeking the warrant must establish under oath or affirmation that the  
 4659 property to be inspected is to be inspected as a part of a legally authorized program of  
 4660 inspection which includes that property or that there is probable cause for believing that  
 4661 there is a condition, object, activity, or circumstance which legally justifies such an  
 4662 inspection of that property; and

4663 (2) The issuing judge determines that the issuance of the warrant is authorized by this  
 4664 ~~chapter~~ part.

4665 37-1-73.

4666 The inspection warrant shall be validly issued only if it meets the following requirements:

4667 (1) The warrant is attached to the affidavit required to be made in order to obtain the  
 4668 warrant;

4669 (2) The warrant describes either directly or by reference to the affidavit the property  
 4670 upon which the inspection is to occur and is sufficiently accurate that the executor of the  
 4671 warrant and the owner or possessor of the property can reasonably determine from it the  
 4672 property of which the warrant authorizes an inspection;

4673 (3) The warrant indicates the conditions, objects, activities, or circumstances which the  
 4674 inspection is intended to check or reveal; and

4675 (4) The warrant refers in general terms to the statutory or regulatory provisions sought  
4676 to be enforced.

4677 37-1-74.

4678 No facts discovered or evidence obtained in an inspection conducted under authority of an  
4679 inspection warrant issued pursuant to this ~~chapter~~ part shall be competent as evidence in  
4680 any criminal proceeding against any party.

4681 Part 2

4682 37-1-90.

4683 The Department of ~~Human Resources~~ Behavioral Health is empowered to institute  
4684 appropriate proceedings for injunction in the courts of competent jurisdiction in this state  
4685 for the purpose of enjoining a violation of any provision of this title as now existing or as  
4686 may be hereafter amended or of any regulation or order duly issued by the board or  
4687 department. The department is also empowered to maintain action for injunction to abate  
4688 any public nuisance which is injurious to the public health, safety, or comfort. Such  
4689 actions may be maintained notwithstanding the fact that such violation also constitutes a  
4690 crime and notwithstanding that other adequate remedies at law exist. Such actions may be  
4691 instituted in the name of the department in the county in which a violation of any provision  
4692 of this title occurs.

4693 Part 3

4694 37-1-100.

4695 Any person violating the provisions of this title shall be guilty of a misdemeanor.

4696 CHAPTER 2

4697 ARTICLE 1

4698 37-2-1.

4699 (a) The State of Georgia recognizes its responsibility for its citizens who are mentally ill  
4700 or developmentally disabled including individuals with epilepsy, cerebral palsy, autism,  
4701 and other neurologically disabling conditions or who abuse alcohol, narcotics, or other  
4702 drugs and recognizes an obligation to such citizens to meet their needs through a  
4703 coordinated system of community facilities, programs, and services.

4704 (b) It is the policy of this state to provide adequate mental health, developmental disability,  
 4705 addictive disease, and other disability services to all its citizens. It is further the policy of  
 4706 this state to provide such services through a unified system which encourages cooperation  
 4707 and sharing of resources among all providers of such services, both governmental and  
 4708 private.

4709 (c) It is the purpose of this chapter to enable and encourage the development of  
 4710 comprehensive, preventive, early detection, habilitative, rehabilitative, and treatment  
 4711 disability services; to improve and expand community programs for the disabled; to  
 4712 provide continuity of care through integration of county, area, regional, and state services  
 4713 and facilities for the disabled; to provide for joint disability services and the sharing of  
 4714 manpower and other resources; and to monitor and restructure the system of providing  
 4715 disability services in the State of Georgia to make better use of the combined public and  
 4716 private resources of the state and local communities.

4717 (d) The provisions of this chapter shall be liberally construed to achieve the objectives set  
 4718 forth in this Code section.

4719 37-2-2.

4720 As used in this chapter, the term:

4721 (1) 'Addictive disease' means the abuse of, addiction to, or dependence upon alcohol or  
 4722 other drugs and includes substance abuse.

4723 (2) 'Community service board' means a public mental health, developmental disabilities,  
 4724 and addictive diseases board established pursuant to Code Section 37-2-6.

4725 ~~(2.1)~~(3) 'Community service board area' means an area inclusive of the counties which  
 4726 fall within the boundaries of a community service board as designated by the ~~division~~  
 4727 department pursuant to subsection (b) of Code Section 37-2-3 for the establishment of a  
 4728 community service board.

4729 ~~(2.2)~~(4) 'Community service board service area' means a community service board area  
 4730 and any other county or portion thereof in which the community service board provides  
 4731 services.

4732 ~~(3)~~(5) 'Consumer' means a natural person who has been or is a recipient of disability  
 4733 services as defined in this Code section.

4734 (6) 'Council' means the Behavioral Health Coordinating Council established pursuant to  
 4735 Code Section 37-2-4.

4736 ~~(4)~~(7) 'Developmental disability' ~~includes mental retardation and other neurologically~~  
 4737 ~~disabling conditions, including epilepsy, cerebral palsy, and autism, which require~~  
 4738 ~~treatment similar to that for individuals with mental retardation.~~ means a severe, chronic  
 4739 disability of an individual that:

- 4740 (A) Is attributable to a mental, cognitive, or physical impairment, or any combination  
 4741 of mental, cognitive, and physical impairments;
- 4742 (B) Is manifested before the individual attains age 22 except in cases of traumatic brain  
 4743 injury when age is not a variable;
- 4744 (C) Is likely to continue indefinitely;
- 4745 (D) Results in substantial functional limitations in three or more of the following areas  
 4746 of major life activities:
- 4747 (i) Self-care;  
 4748 (ii) Receptive and expressive language;  
 4749 (ii) Learning;  
 4750 (iv) Mobility;  
 4751 (v) Self-direction;  
 4752 (vi) Capacity for independent living; and  
 4753 (vii) Economic self-sufficiency; and
- 4754 (E) Reflects the person's need for a combination and sequence of special,  
 4755 interdisciplinary, or generic services, individualized supports, or other forms of  
 4756 assistance which are of lifelong or extended duration and are individually planned and  
 4757 coordinated.
- 4758 When applied to infants and young children, the term means individuals from birth to age  
 4759 nine years, inclusive, who have substantial developmental delay or specific congenital  
 4760 or acquired conditions with a high probability of resulting in developmental disabilities  
 4761 if services or supports are not provided.
- 4762 ~~(5) 'Director' means the director of the Division of Mental Health, Developmental~~  
 4763 ~~Disabilities, and Addictive Diseases.~~
- 4764 ~~(6)~~(8) 'Disability' means:
- 4765 (A) Mental or emotional illness;  
 4766 (B) Developmental disability; or  
 4767 (C) Addictive disease.
- 4768 ~~(7)~~(9) 'Disability services' means services to the disabled or services which are designed  
 4769 to prevent or ameliorate the effect of a disability.
- 4770 ~~(8)~~(10) 'Disabled' means any person or persons having a disability.
- 4771 ~~(9) 'Division' means the Division of Mental Health, Developmental Disabilities, and~~  
 4772 ~~Addictive Diseases of the Department of Human Resources.~~
- 4773 (11) 'Health services' means any education or service provided by the Department of  
 4774 Health or by the Department of Human Services, either directly or by contract.
- 4775 ~~(10)~~(12) 'Hospital' means a state owned or state operated facility providing services  
 4776 which include, but are not limited to, inpatient care and the diagnosis, care, and treatment



4777 or habilitation of the disabled. Such hospital may also provide or manage state owned  
4778 or operated programs in the community.

4779 ~~(11)~~(13) 'Regional board' means a regional ~~mental health, mental retardation, and~~  
4780 ~~substance abuse~~ board established in accordance with Code Section 37-2-4.1 as that Code  
4781 section existed on June 30, 2002.

4782 ~~(12)~~(14) 'Regional office' means the ~~Division of Mental Health, Developmental~~  
4783 ~~Disabilities, and Addictive Diseases of the Department of Human Resources~~ office  
4784 created pursuant to Code Section 37-2-4.1. Such office shall be an office of the ~~division~~  
4785 department which shall serve as the entity for the administration of disability services in  
4786 a region.

4787 ~~(13)~~(15) 'Regional planning board' means a regional mental health, developmental  
4788 disabilities, and addictive diseases board established in accordance with Code Section  
4789 37-2-4.1.

4790 37-2-2.1.

4791 ~~The Department of Human Resources shall have a Division of Mental Health,~~  
4792 ~~Developmental Disabilities, and Addictive Diseases.~~

4793 37-2-3.

4794 (a) The board shall designate boundaries for mental health, developmental disabilities, and  
4795 addictive diseases regions and may modify the boundaries of such regions from time to  
4796 time as deemed necessary by the board.

4797 (b) The ~~division~~ department, with the approval of the commissioner, shall designate  
4798 community service board areas, which shall serve as boundaries for the establishment of  
4799 community service boards within this state for the purpose of delivering disability services.  
4800 The ~~division~~ department shall be authorized to initiate the redesignation of such community  
4801 service board area boundaries and may consider requests from a county or group of  
4802 counties or a community service board or a group of community service boards for  
4803 recommended changes to the boundaries of the community service board areas. The  
4804 ~~division~~ department, with the approval of the commissioner, is authorized to redesignate  
4805 two or more contiguous community service board areas as a single community service  
4806 board area upon the request of the community service boards serving such areas; and, if so  
4807 authorized, the assets, equipment, and resources of such community service boards shall  
4808 become the assets, equipment, and resources of the reconstituted community service board  
4809 serving the successor single board area. It is the intent of the General Assembly not to  
4810 limit a community service board to serving only those counties within the boundaries of  
4811 its community service board area.

4812 (c) To the extent practicable, the boundaries for regional planning boards and offices and  
 4813 community service areas shall not subdivide any county unit or conflict with any districts  
 4814 established by the ~~department~~ Department of Health and the state relating to the planning  
 4815 for, or delivery of, health services. In dividing the state into areas, the board; and the  
 4816 ~~department, and the division~~ shall take into consideration such factors as geographic  
 4817 boundaries, roads and other means of transportation, population concentrations, city and  
 4818 county lines, other relevant community services, and community economic and social  
 4819 relationships. Consideration shall also be given to the existence of facilities and personnel  
 4820 available in the areas for the delivery of disability services.

4821 37-2-4.

4822 (a) ~~The Governor shall appoint, fund, and provide staff assistance to a Governor's~~  
 4823 ~~Advisory Council for Mental Health, Developmental Disabilities, and Addictive Diseases,~~  
 4824 ~~referred to in this chapter as the 'Governor's council.'~~ ~~The Governor's council shall consist~~  
 4825 ~~of no more than 30 and no less than 15 members, who shall be representative of~~  
 4826 ~~professional and lay individuals, organizations, and state agencies associated or involved~~  
 4827 ~~with services for the disabled. Such members shall be fairly representative of all disability~~  
 4828 ~~groups. The term of each member of the Governor's council shall be for three years,~~  
 4829 ~~provided that of the members first appointed, ten shall be appointed for a term of one year,~~  
 4830 ~~five for a term of two years, and the remainder, if any, for a term of three years. Vacancies~~  
 4831 ~~shall be filled by similar appointment for unexpired terms. The director shall be an ex~~  
 4832 ~~officio, nonvoting member. There is created the Behavioral Health Coordinating Council.~~  
 4833 The council shall consist of the commissioner of behavioral health; the commissioner of  
 4834 health; the commissioner of human services; the commissioner of juvenile justice; the  
 4835 commissioner of corrections; an adult consumer of public behavioral health services,  
 4836 appointed by the Governor; a family member of a consumer of public behavioral health  
 4837 services, appointed by the Governor; a parent of a child receiving public behavioral health  
 4838 services, appointed by the Governor; a member of the House of Representatives, appointed  
 4839 by the Speaker of the House of Representatives; and a member of the Senate, appointed by  
 4840 the Lieutenant Governor.

4841 (b) ~~The Governor's council shall advise the Governor, the board, the department, and the~~  
 4842 ~~division as to the efficacy of the state disability services programs, the need for legislation~~  
 4843 ~~relating to the disabled, the need for expansion or reduction of specific disability services~~  
 4844 ~~programs, and the need for specific changes in the state disability services programs. The~~  
 4845 ~~Governor's council shall review and prepare written comments on proposed state plans and~~  
 4846 ~~on standards, rules, and regulations promulgated by the division. Such comments shall be~~  
 4847 ~~submitted to the director, the board, the commissioner, and to any other individual or~~

4848 ~~agency deemed appropriate. The Governor's council shall further receive and consider~~  
4849 ~~complaints and grievances submitted in writing by individuals, associations, or agencies~~  
4850 ~~involved with the delivery or receipt of disability services and, if deemed appropriate, shall~~  
4851 ~~make recommendations to the Governor, the board, the department, or the division with~~  
4852 ~~respect to such complaints or grievances. The Governor's council shall also provide~~  
4853 ~~guidance and assistance to the regional planning boards, hospitals, community service~~  
4854 ~~boards, and other private or public providers in the performance of their duties.~~

4855 (b) The commissioner of behavioral health shall be the chairperson of the council. A vice  
4856 chairperson and a secretary shall be selected by the members of the council as prescribed  
4857 in the council's bylaws.

4858 (c) Meetings of the council shall be held quarterly, or more frequently, on the call of the  
4859 chairperson. Meetings of the council shall be held with no less than five days' public notice  
4860 for regular meetings and with such notice as the bylaws may prescribe for special meetings.  
4861 Each member shall be given written notice of all meetings. All meetings of the council  
4862 shall be subject to the provisions of Chapter 14 of Title 50. Minutes or transcripts shall be  
4863 kept of all meetings of the council and shall include a record of the votes of each member,  
4864 specifying the yea or nay vote or absence of each member, on all questions and matters  
4865 coming before the council. No member may abstain from a vote other than for reasons  
4866 constituting disqualification to the satisfaction of a majority of a quorum of the council on  
4867 a recorded vote. No member of the council shall be represented by a delegate or agent.

4868 (d) Except as otherwise provided in this Code section, a majority of the members of the  
4869 council then in office shall constitute a quorum for the transaction of business. No vacancy  
4870 on the council shall impair the right of the quorum to exercise the powers and perform the  
4871 duties of the council. The vote of a majority of the members of the council present at the  
4872 time of the vote, if a quorum is present at such time, shall be the act of the council unless  
4873 the vote of a greater number is required by law or by the bylaws of the council.

4874 (e) The council shall:

4875 (1) Develop solutions to the systemic barriers or problems to the delivery of behavioral  
4876 health services by making recommendations that implement funding, policy changes,  
4877 practice changes, and evaluation of specific goals designed to improve services delivery  
4878 and outcome for individuals served by the various departments;

4879 (2) Focus on specific goals designed to resolve issues for provision of behavioral health  
4880 services that negatively impact individuals serviced by at least two departments;

4881 (3) Monitor and evaluate the implementation of established goals; and

4882 (4) Establish common outcome measures.

4883 (f)(1) The council may consult with various entities, including state agencies, councils,  
 4884 and advisory committees and other advisory groups as deemed appropriate by the  
 4885 council.

4886 (2) All state departments, agencies, boards, bureaus, commissions, and authorities are  
 4887 authorized and required to make available to the council access to records or data which  
 4888 are available in electronic format or, if electronic format is unavailable, in whatever  
 4889 format is available. The judicial and legislative branches are authorized to likewise  
 4890 provide such access to the council.

4891 (g) The council shall be attached to the Department of Behavioral Health for  
 4892 administrative purposes only as provided by Code Section 50-4-3.

4893 (h)(1) The council shall submit annual reports of its recommendations and evaluation of  
 4894 their implementation to the Governor and the General Assembly.

4895 (2) The recommendations developed by the council shall be presented to the board of  
 4896 each member department for approval or review at least annually.

4897 (i) For purposes of this Code section, the term 'behavioral health services' has the same  
 4898 meaning as 'disability services' as defined in Code Section 37-2-2.

4899 37-2-4.1.

4900 (a) The ~~division~~ department shall create regional mental health, developmental disabilities,  
 4901 and addictive diseases offices. The number of these offices may be modified from time to  
 4902 time as deemed necessary by the ~~division~~ department.

4903 (b) The ~~division~~ department, in consultation with the Department of Human Services, shall  
 4904 create a separate regional mental health, developmental disabilities, and addictive diseases  
 4905 planning board for each regional office established under subsection (a) of this Code  
 4906 section. Each board shall provide and facilitate coordinated and comprehensive planning  
 4907 for its region in conformity with minimum standards and procedures established by the  
 4908 ~~division~~ department. Each board shall be designated with such identifying words before  
 4909 the term 'regional mental health, developmental disabilities, and addictive diseases  
 4910 planning board' as that regional planning board may, from time to time, choose and  
 4911 designate by official action.

4912 (c) The powers, functions, obligations, and duties of the regional mental health, mental  
 4913 retardation, and substance abuse boards as they existed on June 30, 2002, are transferred  
 4914 to the department. The department shall succeed to all rights, privileges, entitlements,  
 4915 contracts, leases, agreements, and other transactions of the regional boards which were in  
 4916 effect on June 30, 2002, and none of those rights, privileges, entitlements, contracts, leases,  
 4917 agreements, and other transactions shall be impaired or diminished by reason of such  
 4918 transfer. In all such instances, the department shall be substituted for such regional board

4919 and the department shall succeed to the rights and duties under such contracts, leases,  
4920 agreements, and other transactions.

4921 37-2-5.

4922 (a) Each regional planning board shall engage in disability services planning within its  
4923 region and shall perform such other functions as may be provided or authorized by law.

4924 (b) Membership on the regional planning board within an established region shall be  
4925 determined as follows:

4926 (1) Each county with a population of 50,000 or less according to the United States  
4927 decennial census of 1990 or any future such census shall appoint one member to the  
4928 board;

4929 (2) Each county with a population of more than 50,000 according to the United States  
4930 decennial census of 1990 or any future such census shall appoint one member for each  
4931 population increment of 50,000 or any portion thereof;

4932 (3) The appointment or appointments for each county shall be made by the county  
4933 governing authority; and

4934 (4) The county governing authority shall appoint a consumer of disability services, a  
4935 family member of a consumer, an advocate for disability services, or a local leader or  
4936 business person with an interest in mental health, developmental disabilities, and  
4937 addictive diseases; provided, however, that for counties with more than one appointment,  
4938 the county governing authority shall seek to ensure that such appointments represent  
4939 various groups and disability services.

4940 (b.1) A county governing authority may appoint the school superintendent, a member of  
4941 the county board of health, a member of the local board of education, or any other elected  
4942 or appointed official to serve on the regional planning board, provided that such person  
4943 meets the qualifications of paragraph (4) of subsection (b) of this Code section, such person  
4944 does not serve on a community service board, and such appointment does not violate the  
4945 provisions of Chapter 10 of Title 45.

4946 (b.2)(1) A person shall not be eligible to be appointed to or serve on a regional planning  
4947 board if such person is:

4948 (A) A member of the community service board which serves that region; or

4949 (B) An employee or board member of a private or public entity which contracts with  
4950 the department, ~~through the division,~~ the Department of Human Services, or the  
4951 Department of Health to provide health, mental health, developmental disabilities, or  
4952 addictive diseases services within the region; ~~or~~

4953 (C) An employee of such regional office or employee or board member of any private  
 4954 or public group, organization, or service provider which contracts with or receives  
 4955 funds from such regional office: or

4956 (D) An employee or board member of the department, the Department of Human  
 4957 Services, or the Department of Health.

4958 (2) A person shall not be eligible to be appointed to or serve on a regional planning board  
 4959 if such person's spouse, parent, child, or sibling is a member of that regional planning  
 4960 board or a member, employee, or board member specified in ~~subparagraph (A), (B), or~~  
 4961 ~~(C)~~ of paragraph (1) of this subsection. No person who has served a full term or more  
 4962 on a regional board or regional planning board may be appointed to a community service  
 4963 board until a period of at least two years has passed since the time such person served on  
 4964 the regional board or the regional planning board. No person who has served on a  
 4965 regional board and who becomes a member of a regional planning board on June 30,  
 4966 2002, may be appointed to a community service board until a period of at least two years  
 4967 has passed since the time such person has served on the regional planning board.

4968 (c) In making appointments to the regional planning board, the various county governing  
 4969 authorities shall ensure that appointments are reflective of the cultural and social  
 4970 characteristics, including gender, race, ethnic, and age characteristics, of the regional and  
 4971 county populations. The county governing authorities are further encouraged to ensure that  
 4972 each disability group is viably represented on the regional planning board, and in so doing  
 4973 the county governing authority may consider suggestions for appointments from clinical  
 4974 professional associations as well as advocacy groups, including but not limited to the  
 4975 Georgia Mental Health Consumer Network, People First of Georgia, the Georgia Parent  
 4976 Support Network, National Alliance for the Mentally Ill Georgia, the American Association  
 4977 for Retired Persons, Georgians for Children, the National Mental Health Association of  
 4978 Georgia, Georgia ARC Network, and the Georgia Council on Substance Abuse and their  
 4979 local chapters and affiliates.

4980 (d)(1) In addition, members of the regional mental health, mental retardation, and  
 4981 substance abuse boards in office on June 30, 2002, shall become members of the regional  
 4982 planning board for the area in which they reside on July 1, 2002, and shall serve out the  
 4983 balance of their terms.

4984 (2) The initial term of a new member of a regional planning board shall be determined  
 4985 by the commissioner in order to establish staggered terms on the board. At such time as  
 4986 the terms of the members of the board are equally staggered, the term of a member of the  
 4987 regional planning board shall be for a period of three years and until the member's  
 4988 successor is appointed and qualified. A member may serve no more than two consecutive  
 4989 terms. The term of a regional planning board member shall terminate upon resignation,

4990 death, or inability to serve due to medical infirmity or other incapacity or such other  
4991 reasonable condition as the regional planning board may impose under its bylaws.  
4992 Vacancies on the regional planning board shall be filled in the same manner as the  
4993 original appointment.

4994 (e) Prior to August 1, 2002, each regional planning board shall adopt bylaws governing  
4995 its operation and management. At a minimum, the bylaws shall provide for staggered  
4996 terms of the board, requirements for an annual meeting to elect officers, a mechanism for  
4997 ensuring that consumers of disability services and family members of consumers constitute  
4998 a majority of the appointments to the board, and a mechanism for ensuring that each  
4999 disability service is equitably represented by appointments to the board. Any board  
5000 member who serves an initial term of less than three years may be eligible to be  
5001 reappointed for two full consecutive three-year terms. The chairperson and vice  
5002 chairperson of the regional planning board shall be elected from among the members of the  
5003 board to serve a term of one year with the option of reelection for an additional one-year  
5004 term. The bylaws shall provide for any other officers and their means of selection, as well  
5005 as any necessary committees or subcommittees of the board. Prior to their adoption by the  
5006 regional planning board, the bylaws shall be submitted to the ~~division~~ department for  
5007 review and approval. The regional planning board must have the written approval of the  
5008 ~~director of the division~~ commissioner prior to the adoption of bylaws.

5009 (f) The regional planning board shall meet not less than once every two months, beginning  
5010 on July 1 and continuing through the next June 30, which time frame shall be the fiscal  
5011 year for each regional planning board.

5012 (g) Each member of the regional planning board may, upon approval of the regional  
5013 coordinator, receive reimbursement for actual expenses incurred in carrying out the duties  
5014 of such office in conformance with rates and allowances set for state employees by the  
5015 Office of Planning and Budget and the same mileage allowance for use of a personal car  
5016 as that received by all other state officials and employees or a travel allowance of actual  
5017 transportation cost if traveling by public carrier.

5018 (h) Each regional planning board which is composed of members who are appointed  
5019 thereto by the governing authority of only one county shall have a minimum of six  
5020 members, notwithstanding the provisions of subsection (b) of this Code section, which  
5021 members shall in all other respects be appointed as provided in this Code section.

5022 37-2-5.1.

5023 (a) Each region shall be served by a regional coordinator; who shall be duly qualified and  
5024 appointed by the ~~director of the division~~ commissioner. The regional coordinator shall  
5025 serve as the supervisor of the regional office, which shall be a unit of the ~~division~~

5026 department. The regional coordinator shall serve at the pleasure of the ~~division director~~  
 5027 commissioner. The ~~director of the division~~ commissioner shall be authorized to appoint  
 5028 an interim regional coordinator at any time that the position of regional coordinator is  
 5029 vacant and prior to the appointment of a duly qualified and approved successor.

5030 (b) The regional coordinator may appoint such other staff including a regional services  
 5031 administrator ~~and a regional state hospital administrator~~ and personnel to work for the  
 5032 regional office as the ~~division~~ department deems necessary and appropriate. The regional  
 5033 coordinator and such staff and personnel shall be employees of the ~~division~~ department.  
 5034 Expenses for the regional office and planning board, the employment of the regional  
 5035 coordinator, other staff and personnel, and the operation of the regional office shall be  
 5036 funded by the ~~division~~ department as funds are appropriated by the General Assembly. The  
 5037 department ~~and the division~~ shall impose limits on the administrative and operating  
 5038 expenditures of the regional office and planning board.

5039 (c)(1) State, federal, and other funds appropriated to the department, ~~the division, or~~  
 5040 ~~both~~, and available for the purpose of funding the planning and delivery of disability  
 5041 services shall be distributed in accordance with this subsection. All funds associated with  
 5042 services to clients residing within a given region shall be managed through the ~~division~~  
 5043 department; the term 'all funds' shall include funding for hospitals, community service  
 5044 boards, private and public contracts, and any contracts relating to service delivery for  
 5045 clients within the given region. The ~~division~~ department shall establish a funding amount  
 5046 for regions conditioned upon the amount of funds appropriated. The funding amount  
 5047 shall be determined, in part, based on consumer service needs, service and program  
 5048 history, population based funding needs, infrastructure mandates, program efficiency and  
 5049 effectiveness, geographic distances, and other factors affecting the cost and level of  
 5050 service needs within each region.

5051 (2) The ~~division~~ department shall establish guidelines to ensure that regions receive such  
 5052 funding based on client population, past and future service delivery needs and  
 5053 capabilities, and in consideration of special needs populations, such as homeless and  
 5054 transient populations. The ~~division~~ department shall ensure that funds are managed based  
 5055 primarily on services to clients and in compliance with all federal, state, and regulatory  
 5056 requirements.

5057 (3) The ~~division~~ department, in compliance with the provisions of the General  
 5058 Appropriations Act and other applicable laws, is authorized to move funds to and  
 5059 between community and institutional programs based on need, and the ~~division~~  
 5060 department shall develop appropriate allocation and accounting mechanisms to move  
 5061 funds in a planned and rational manner between hospitals, community service boards, and  
 5062 other providers based on client needs and utilization.



5063 37-2-5.2.

5064 (a) Under the supervision of the ~~division~~ department, each regional office shall have the  
5065 following duties and functions:

5066 (1) To prepare, in consultation with consumers and families, community programs,  
5067 hospitals, other public and private providers, its regional planning board, and appropriate  
5068 advisory and advocacy groups, an annual plan for the funding and provision of all  
5069 disability services in the region. The plan shall be submitted to the ~~division~~ department  
5070 at a time and in the manner specified by the ~~division~~ department so as to ensure that the  
5071 plan is a basis for the annual appropriations request;

5072 (2) To provide, as funds become available, for consumer assessment and service  
5073 authorization and coordination for each consumer receiving services within the region;

5074 (3) To exercise responsibility and authority as specified in this chapter within the region  
5075 in all matters relating to the funding and delivery of disability services;

5076 (4) To receive and administer grants, gifts, moneys, and donations for purposes  
5077 pertaining to mental health, developmental disability, and addictive disease services;

5078 (5) To enter into contracts on behalf of the ~~division~~ department with any hospital,  
5079 community service board, or other public or private providers without regard to regional  
5080 or state boundaries for the provision of disability services, and to enter into all contracts  
5081 on behalf of the ~~division~~ department necessary or incidental to the performance of duties  
5082 and functions of the ~~division~~ department and regional office;

5083 (6) To encourage the development, in cooperation with the ~~division~~ department, of  
5084 private and public providers of programs and disability services which respond to the  
5085 needs of consumers and families of consumers within the region;

5086 (7) To serve as the representative of the citizens of the area in regard to disability  
5087 services;

5088 (8) To receive and consider complaints and grievances submitted by individuals,  
5089 associations, or agencies involved with the delivery or receipt of disability services and,  
5090 if deemed appropriate, to seek resolution, through processes which may include impartial  
5091 mediation and alternate dispute resolution, of such complaints and grievances with the  
5092 appropriate hospital, community service board, or other private or public provider of  
5093 service;

5094 (9) To assure the highest achievable level of public awareness and understanding of both  
5095 available and needed disability services;

5096 (10) To visit regularly disability services facilities and programs which serve the region  
5097 in order to assure contracted providers are licensed and accredited by the designated  
5098 agencies prescribed by the ~~division~~ department, and in order to evaluate the effectiveness  
5099 and appropriateness of the services, as such services relate to the health, safety, and

5100 welfare of service recipients, and to provide technical assistance to programs in  
5101 delivering services; and

5102 (11) To participate with other regional offices and planning boards, ~~the division~~, the  
5103 department, local, state, or federal government agencies, educational institutions, and  
5104 public and private organizations in the coordination of planning, research, service  
5105 development, and evaluation activities:

5106 (A) To work cooperatively with all units of county and local government, including the  
5107 county boards of health, within the region;

5108 (B) To establish goals and objectives, not inconsistent with those established by ~~the~~  
5109 ~~division~~ and the department, for its region; and

5110 (C) To participate in the establishment and operation of a data base and network,  
5111 coordinated by the ~~division~~ department, to serve as a comprehensive management  
5112 information system for disability services and programs.

5113 (b) It is the express intent of this chapter to confer upon the regional offices as the  
5114 administrative entities of the ~~division~~ department the flexibility and authority necessary to  
5115 enter into contracts on behalf of the ~~division~~ department with a wide range of public and  
5116 private providers to ensure that consumers are afforded cost-effective, locally based, and  
5117 quality disability services. Under the supervision of the ~~division~~ department, regional  
5118 offices are specifically authorized to enter into contracts on behalf of the ~~division~~  
5119 department directly with any county governing authority, any disability services  
5120 organization created or designated by such county governing authority, any county board  
5121 of health, any private or public provider, or any hospital for the provision of disability  
5122 services.

5123 (c) Each regional office shall account for all funds received, expended, and administered  
5124 and shall make reports to the ~~division~~ department and to the Department of Human  
5125 Services regarding the funds received from each such department. The audit of such  
5126 activity shall be part of the annual audit of the appropriate department.

5127 37-2-6.

5128 (a) Community service boards in existence on June 30, 2006, are re-created effective July  
5129 1, 2006, to provide mental health, developmental disabilities, and addictive diseases  
5130 services. ~~Such~~ Effective July 1, 2009, such community service boards may enroll and  
5131 contract with the department, the Department of Human Services, or the Department of  
5132 Health to become a provider of mental health, developmental disabilities, and addictive  
5133 diseases services or health services. Such boards shall be considered public agencies.  
5134 Each community service board shall be a public corporation and an instrumentality of the  
5135 state; provided, however, the liabilities, debts, and obligations of a community service

5136 board shall not constitute liabilities, debts, or obligations of the state or any county or  
5137 municipal corporation and neither the state nor any county or municipal corporation shall  
5138 be liable for any liability, debt, or obligation of a community service board. Each  
5139 community service board re-created pursuant to this Code section is created for nonprofit  
5140 and public purposes to exercise essential governmental functions. The re-creation of  
5141 community service boards pursuant to this Code section shall not alter the provisions of  
5142 Code Section 37-2-6.2 which shall apply to those re-created community service boards and  
5143 their employees covered by that Code section and those employees' rights are retained.

5144 (b) Each community service board shall consist of members appointed by the governing  
5145 authorities of the counties within the community service board area. Membership on such  
5146 community service board shall be determined as follows:

5147 (1)(A) The governing authority of each county within the community service board  
5148 area:

5149 (i) With a population of 50,000 or less according to the most recent United States  
5150 decennial census shall appoint one member to the board; and

5151 (ii) With a population of more than 50,000 according to the most recent United States  
5152 decennial census shall appoint one member for each population increment of 50,000  
5153 or any portion thereof; or

5154 (B) In the event that the number of community service board member positions  
5155 established in accordance with subparagraph (A) of this paragraph would exceed 13,  
5156 the membership of such community service board pursuant to this subsection shall be  
5157 appointed as follows and the bylaws shall be amended accordingly:

5158 (i) For community service boards whose community service board area contains 13  
5159 or fewer counties, the board shall be set at 13 members and appointments to the board  
5160 shall be made by the governing authority of each county within the community  
5161 service board area in descending order from the county with the largest population to  
5162 the county with the smallest population according to the most recent United States  
5163 decennial census and this method shall be repeated until all 13 members of the  
5164 community service board are appointed. If a county governing authority fails to make  
5165 an appointment within a reasonable time, the next descending county by population  
5166 shall make an appointment and the method shall continue; and

5167 (ii) For community service boards whose community service board area contains  
5168 more than 13 counties, one member of the community service board shall be  
5169 appointed by the governing authority of each county within the community service  
5170 board area, so that the number of members on the board is equal to the number of  
5171 counties in the community service board area.

5172 The county governing authority shall appoint as at least one of its appointments a  
5173 consumer of disability services, a child psychiatrist, a family member of a consumer,  
5174 an advocate for disability services or for health services, or a local leader or  
5175 businessperson with an interest in mental health, developmental disabilities, and  
5176 addictive diseases or health services; provided, however, that for counties with more  
5177 than one appointment, the county governing authority shall seek to ensure that such  
5178 appointments represent various groups and disability services;

5179 (2) In addition to the members appointed pursuant to paragraph (1) of this subsection,  
5180 each community service board may appoint up to three additional members in order to  
5181 address variation in the population sizes of counties or the financial contributions of  
5182 counties within the community service board area or may authorize the elected chief  
5183 executive officer of a county governing authority, by whatever name called, or an elected  
5184 member of that county governing authority to serve on the community service board  
5185 while holding such elective office. The bylaws of the community service board shall  
5186 address the number of such additional members, if any, and the purpose or purposes for  
5187 which such positions are created. The term of office of such additional members shall  
5188 be the same as that of other members as provided in subsection (h) of this Code section;  
5189 except that the term of office of a member in a position created to authorize the elected  
5190 chief executive officer of a county governing authority, by whatever name called, or an  
5191 elected member of that county governing authority to serve on the community service  
5192 board shall be the same term of office as the elective term of office of said chief  
5193 executive officer or said member of that county governing authority;

5194 (3) Each community service board in existence on June 30, 2006, shall reconstitute its  
5195 membership in accordance with the provisions of paragraphs (1) and (2) of this  
5196 subsection, effective July 1, 2006, as follows:

5197 (A) A community service board which increases or reduces the number of its members  
5198 in accordance with paragraphs (1) and (2) of this subsection shall revise its bylaws  
5199 adopted in accordance with subsection (h) of this Code section to reflect such increases  
5200 or reductions. A community service board which reduces the number of its members  
5201 shall designate which position or positions are to be eliminated and shall make  
5202 reasonable efforts to eliminate any position or positions of members whose terms expire  
5203 on or before June 30, 2006; provided, however, that members serving on a community  
5204 service board whose terms do not expire on or before June 30, 2006, shall continue to  
5205 serve out the terms of office to which they were appointed, regardless of whether this  
5206 causes a board to temporarily exceed the maximum number of members. Any  
5207 additional positions created in conformity with such paragraphs (1) and (2) may be  
5208 filled on July 1, 2006, and the governing authority of a county that is otherwise

5209 authorized to appoint such additional community service board member or members  
 5210 may do so no sooner than May 1, 2006, but any person so appointed shall not take  
 5211 office until July 1, 2006. If a position on such community service board is not filled on  
 5212 July 1, 2006, a vacancy in that position shall be deemed to have occurred on that date.  
 5213 A community service board is authorized to make whatever changes necessary in the  
 5214 terms of office of its members in order to achieve the staggering of terms required by  
 5215 subsection (h) of this Code section; and

5216 (B) The term of office of an ex officio, voting member of a community service board  
 5217 holding membership on June 30, 2006, shall expire on June 30, 2006; and

5218 (4)(A) A person shall not be eligible to be appointed to or serve on a community  
 5219 service board if such person is:

5220 (i) A member of the regional planning board which serves the region in which that  
 5221 community service board is located;

5222 (ii) An employee or board member of a public or private entity which contracts with  
 5223 the ~~division~~ department, the Department of Human Services, or the Department of  
 5224 Health to provide mental health, developmental disabilities, and addictive diseases  
 5225 services or health services within the region; or

5226 (iii) An employee of that community service board or employee or board member of  
 5227 any private or public group, organization, or service provider which contracts with or  
 5228 receives funds from that community service board.

5229 (B) A person shall not be eligible to be appointed to or serve on a community service  
 5230 board if such person's spouse, parent, child, or sibling is a member of that community  
 5231 service board or a member, employee, or board member specified in ~~division (i), (ii),~~  
 5232 ~~or (iii) of subparagraph (A) of this paragraph.~~ With respect to appointments by the  
 5233 same county governing authority, no person who has served a full term or more on a  
 5234 community service board may be appointed to a regional planning board until a period  
 5235 of at least two years has passed since the time such person served on the community  
 5236 service board, and no person who has served a full term or more on a regional planning  
 5237 board may be appointed to a community service board until a period of at least two  
 5238 years has passed since the time such person has served on the regional planning board.

5239 (5) A community service board created in accordance with this subsection shall  
 5240 reconstitute its membership in conformity with the most recent United States decennial  
 5241 census in accordance with subparagraph (d)(2)(C) of Code Section 1-3-1.

5242 (b.1) A county governing authority may appoint the school superintendent, a member of  
 5243 the county board of health, a member of the board of education, or any other elected or  
 5244 appointed official to serve on the community service board provided that such person meets  
 5245 the qualifications of paragraph (1) of subsection (b) of this Code section and such

5246 appointment does not violate the provisions of Chapter 10 of Title 45. For terms of office  
5247 which begin July 1, 1994, or later, an employee of the Department of Human Resources  
5248 (now known as the Department of Behavioral Health for these purposes) or an employee  
5249 of a county board of health ~~may~~ shall not serve on a community service board. For terms  
5250 of office which begin July 1, 2009, or later, an employee of the department, the Department  
5251 of Human Services, or the Department of Health or a board member of the respective  
5252 boards of each department shall not serve on a community service board.

5253 (c) In making appointments to the community service board, the county governing  
5254 authorities shall ensure that such appointments are reflective of the cultural and social  
5255 characteristics, including gender, race, ethnic, and age characteristics, of the community  
5256 service board area and county populations. The county governing authorities are further  
5257 encouraged to ensure that each disability group is and consumers of health services are  
5258 represented on the community service board, and in making such appointments the county  
5259 governing authorities may consider suggestions from clinical professional associations as  
5260 well as advocacy groups. For the purposes of this subsection, 'advocacy groups' means any  
5261 organizations or associations that advocate for, promote, or have an interest in disability  
5262 services or health services and are exempted as a charitable organization from federal  
5263 income tax pursuant to Section 501(c) of the Internal Revenue Code; provided, however,  
5264 that 'advocacy groups' shall not mean paid providers of disability services or health  
5265 services.

5266 (c.1) A county governing authority in making appointments to the community service  
5267 board shall take into consideration that at least one member of the community service  
5268 board is an individual who is trained or certified in finance or accounting; provided,  
5269 however, if after a reasonable effort at recruitment there is no person trained or certified  
5270 in finance or accounting within the community service board area who is willing and able  
5271 to serve, the county governing authority may consider for appointment any other person  
5272 having a familiarity with financial or accounting practices.

5273 (d) Each county in which the governing authority of the county is authorized to appoint  
5274 members to the community service board shall participate with the board in the operation  
5275 of the program through the community service board. All contractual obligations,  
5276 including but not limited to real estate leases, rentals, and other property agreements, other  
5277 duties, rights, and benefits of the mental health, developmental disabilities, and addictive  
5278 diseases service areas in existence on June 30, 2006, shall continue to exist along with the  
5279 new powers granted to the community service boards effective July 1, 2006.

5280 (e) Notwithstanding any other provision of this chapter, a community service board may  
5281 be constituted in a method other than that outlined in subsection (b) of this Code section  
5282 if:

5283 (1) A board of health of a county desiring to be the lead county board of health for that  
 5284 county submits a written agreement to the ~~division~~ former Division of Mental Health,  
 5285 Developmental Disabilities, and Addictive Diseases (now known as the Department of  
 5286 Behavioral Health) of the former Department of Human Resources before July 1, 1993,  
 5287 to serve as the community service board and to continue providing disability services in  
 5288 that county after July 1, 1994, and the governing authority for that county ~~adopts~~ adopted  
 5289 a resolution stating its desire to continue the provision of disability services through its  
 5290 board of health after July 1, 1994, and ~~submits~~ submitted a copy of such resolution to the  
 5291 former division before July 1, 1993; or

5292 (2)(A) The lead county board of health for a community mental health, mental  
 5293 retardation, and substance abuse service area, as designated by the ~~division~~ former  
 5294 Division of Mental Health, Developmental Disabilities, and Addictive Diseases (now  
 5295 known as the Department of Behavioral Health) of the former Department of Human  
 5296 Resources on July 15, 1993, but which area excludes any county which meets the  
 5297 requirements of paragraph (1) of this subsection, ~~submits~~ submitted a written agreement  
 5298 to the former division and to all counties within such service area to serve as the  
 5299 community service board for that area and to continue providing disability services  
 5300 after July 1, 1994, which agreement ~~shall be~~ was submitted between July 31, 1993, and  
 5301 December 31, 1993; and

5302 (B) Each county governing authority which is within the service area of a lead county  
 5303 board of health which has submitted an agreement pursuant to subparagraph (A) of this  
 5304 paragraph ~~adopts~~ adopted a resolution stating its desire to continue the provision of  
 5305 disability services through such lead county board of health after July 1, 1994, and  
 5306 ~~submits~~ submitted a copy of that resolution to the former division, the regional board,  
 5307 and the lead county board of health between July 31, 1993, and December 31, 1993;  
 5308 and

5309 (3) The lead county board of health qualifying as such under paragraph (1) or (2) of this  
 5310 subsection agrees in writing to appoint a director for mental health, mental retardation,  
 5311 and substance abuse other than the director of the county board of health as stipulated in  
 5312 Code Section 31-3-12.1, to appoint an advisory council on mental health, mental  
 5313 retardation, and substance abuse consisting of consumers, families of consumers, and  
 5314 representatives from each of the counties within the boundaries of the community service  
 5315 board, and to comply with all other provisions relating to the delivery of disability  
 5316 services pursuant to this chapter.

5317 (f) If the conditions enumerated in subsection (e) of this Code section are not met prior to  
 5318 or on December 31, 1993, a community service board as provided in subsection (b) shall  
 5319 be established and appointed by January 31, 1994, to govern the provision of disability

5320 services within the boundaries of the community service board. Such community service  
5321 board shall have the authority to adopt bylaws and undertake organizational and contractual  
5322 activities after January 31, 1994; provided, however, that the community service board  
5323 established pursuant to this Code section may not begin providing services to clients until  
5324 July 1, 1994.

5325 (g) If a community service board is established pursuant to paragraph (2) of subsection (e)  
5326 of this Code section, such community service board must operate as established at least  
5327 until June 30, 1996; provided, however, that in each fiscal year following June 30, 1996,  
5328 the counties included under the jurisdiction of such a community service board may vote  
5329 to reconstitute the community service board pursuant to the provisions of subsection (b)  
5330 of this Code section by passage of a resolution by a majority of the county governing  
5331 authorities within the jurisdiction of the community service board prior to January 1, 1997,  
5332 or each year thereafter.

5333 (h) Each community service board shall adopt bylaws and operational policies and  
5334 guidelines in conformity with the provisions of this chapter. Those bylaws shall address  
5335 board appointment procedures, initial terms of board members, the staggering of terms,  
5336 quorum, a mechanism for ensuring that consumers of disability services or of health  
5337 services and family members of consumers constitute no less than 50 percent of the board  
5338 members appointed pursuant to subsection (b) of this Code section, and a mechanism for  
5339 ensuring equitable representation of the various disability groups and health services. A  
5340 quorum for the transaction of any business and for the exercise of any power or function  
5341 of the community service board shall consist of a majority of the total number of filled  
5342 board member positions appointed pursuant to subsection (b) of this Code section. A vote  
5343 of the majority of such quorum shall be the act of the governing board of the community  
5344 service board except where the bylaws of the community service board may require a  
5345 greater vote. The regular term of office for each community service board member shall  
5346 be three years. Vacancies on such board shall be filled in the same manner as the original  
5347 appointment. For the purposes of this subsection, 'equitable representation of the various  
5348 disability and health service groups' shall mean that consumers and family members of  
5349 such consumers who constitute no less than 50 percent of the board members holding  
5350 membership pursuant to subsection (b) of this Code section shall be appointed so as to  
5351 assure that an equal number of such members to the fullest extent possible represents  
5352 mental health, developmental disabilities, and addictive diseases interests and the interests  
5353 of consumers of health services.

5354 (i) Each community service board which is composed of members who are appointed  
5355 thereto by the governing authority of only one county shall have a minimum of six and no  
5356 more than 13 members, not including any additional members appointed pursuant to



5357 paragraph (2) of subsection (b) of this Code section, notwithstanding the provisions of  
 5358 subsection (b) of this Code section, which members in all other respects shall be appointed  
 5359 as provided in this Code section.

5360 (j) No officer or employee of a community service board who has authority to take, direct  
 5361 others to take, recommend, or approve any personnel action shall take or threaten action  
 5362 against any employee of a community service board as a reprisal for making a complaint  
 5363 or disclosing information concerning the possible existence of any activity constituting  
 5364 fraud, waste, or abuse in or relating to the programs, operations, or client services of the  
 5365 board to the board or to a member of the General Assembly unless the complaint was made  
 5366 or the information was disclosed with the knowledge that it was false or with willful  
 5367 disregard for its truth or falsity. Any action taken in violation of this subsection shall give  
 5368 the public employee a right to have such action set aside in a proceeding instituted in the  
 5369 superior court.

5370 (k) A member of a community service board who after notice that such member has failed  
 5371 to complete any required training prescribed by the department pursuant to paragraph (4)  
 5372 of subsection ~~(b)~~(a) of Code Section 37-1-20 continues such failure for 30 days may be  
 5373 removed from office by the remaining members of the community service board.

5374 (l) A member of a community service board may resign from office by giving written  
 5375 notice to the executive director of the community service board. The resignation is  
 5376 irrevocable after delivery to such executive director but shall become effective upon the  
 5377 date on which the notice is received or on the effective date given by the member in the  
 5378 notice, whichever date is later. The executive director, upon receipt of the resignation,  
 5379 shall give notice of the resignation to the remaining members of the community service  
 5380 board and to the chief executive officer or governing authority of the county that appointed  
 5381 the member.

5382 (m) The office of a member of a community service board shall be vacated upon such  
 5383 member's resignation, death, or inability to serve due to medical infirmity or other  
 5384 incapacity, removal by the community service board as authorized in this Code section or  
 5385 upon such other reasonable condition as the community service board may impose under  
 5386 its bylaws.

5387 (n) A member of a community service board may not enter upon the duties of office until  
 5388 such member takes the following oath of office:

5389 STATE OF GEORGIA

5390 COUNTY OF \_\_\_\_\_

5391 I, \_\_\_\_\_, do solemnly swear or affirm that I will truly perform the  
 5392 duties of a member of the \_\_\_\_\_ Community Service Board to the  
 5393 best of my ability.

5394 I do further swear or affirm:

5395 (1) That I am not the holder of any unaccounted for public money due this state or any  
5396 political subdivision or authority thereof;

5397 (2) That I am not the holder of any office of trust under the government of the United  
5398 States, any other state, or any foreign state which I am by the laws of the State of Georgia  
5399 prohibited from holding;

5400 (3) That I am otherwise qualified to hold said office according to the Constitution and  
5401 the laws of Georgia; and

5402 (4) That I will support the Constitution of the United States and this state.

5403 \_\_\_\_\_  
5404 Signature of member of  
5405 \_\_\_\_\_ Community Service Board

5406 \_\_\_\_\_  
5407 Typed name of member of  
5408 \_\_\_\_\_ Community Service Board

5409 Sworn and subscribed  
5410 before me this \_\_\_\_\_ day  
5411 of \_\_\_\_\_, \_\_\_\_\_.  
5412 (SEAL)

5413 37-2-6.1.

5414 (a) Each community service board shall employ an executive director to serve as its chief  
5415 executive officer who shall direct the day-to-day operations of the community service  
5416 board. Such executive director shall be appointed and removed by the community service  
5417 board and shall appoint other necessary staff pursuant to an annual budget adopted by the  
5418 board, which budget shall provide for securing appropriate facilities, sites, and  
5419 professionals necessary for the provision of disability and health services. The community  
5420 service board may delegate any power, authority, duty, or function to its executive director  
5421 or other staff. The executive director or other staff is authorized to exercise any power,  
5422 authority, duty, or function on behalf of the community service board.

5423 (b) Each community service board, under the jurisdiction of its board, shall perform duties,  
5424 responsibilities, and functions and may exercise power and authority described in this  
5425 subsection. Each program may exercise the following power and authority:

5426 (1) Each community service board may adopt bylaws for the conduct of its affairs;  
5427 provided, however, that the community service board shall meet at least quarterly, and

5428 that all such meetings and any bylaws shall be open to the public, as otherwise required  
5429 under Georgia law;

5430 (2) Each community service board may make and enter into all contracts necessary and  
5431 incidental to the performance of its duties and functions;

5432 (3) Each community service board may acquire by purchase, gift, lease, or otherwise and  
5433 may own, hold, improve, use, and sell, convey, exchange, transfer, lease, sublease, and  
5434 dispose of real and personal property of every kind and character, or any interest therein,  
5435 for its corporate purposes;

5436 (4) Each community service board may contract to utilize the services of the Department  
5437 of Administrative Services, the State Merit System of Personnel Administration, the state  
5438 auditor, or any other agency of state, local, or federal government;

5439 (5) Each community service board may provide, either independently or through contract  
5440 with appropriate state or local governmental entities, the following benefits to its  
5441 employees, their dependents, and survivors, in addition to any compensation or other  
5442 benefits provided to such persons:

5443 (A) Retirement, pension, disability, medical, and hospitalization benefits, through the  
5444 purchase of insurance or otherwise, but medical and hospitalization benefits may only  
5445 be provided through the Department of ~~Community~~ Health under the same conditions  
5446 as provided for such benefits to state employees, and the Department of ~~Community~~  
5447 Health shall so provide if requested;

5448 (B) Life insurance coverage and coverage under federal old age and survivors'  
5449 insurance programs;

5450 (C) Sick leave, annual leave, and holiday leave; and

5451 (D) Any other similar benefits including, but not limited to, death benefits;

5452 (6) Each community service board may cooperate with all units of local government in  
5453 the counties where the community service board provides services as well as neighboring  
5454 regions and with the programs of other departments, agencies, and regional commissions  
5455 and regional planning boards;

5456 (7) Each community service board shall establish and maintain a personnel program for  
5457 its employees and fix the compensation and terms of compensation of its employees;  
5458 provided, however, each community service board shall comply with the provisions of  
5459 Chapter 20 of Title 45, relating to state personnel administration, for ~~as~~ so long as and to  
5460 the extent that each employee of such board who is a covered employee as defined in  
5461 Code Section 45-20-2 and is subject to the rules and regulations of the State Merit System  
5462 of Personnel Administration remains in a covered position or as otherwise provided by  
5463 law;

- 5464 (8) Each community service board may receive and administer grants, gifts, contracts,  
5465 moneys, and donations for purposes pertaining to the delivery of disability services or of  
5466 health services;
- 5467 (9) Each community service board may establish fees for the provision of disability  
5468 services or health services according to the terms of contracts entered into with the  
5469 department, Department of Human Resources Services, and the or Department of  
5470 Community Health, as appropriate;
- 5471 (10) Each community service board may accept appropriations, loans of funds, facilities,  
5472 equipment, and supplies from local governmental entities in the counties where the  
5473 community service board provides services;
- 5474 (11) Each member of the community service board may, upon approval of the executive  
5475 director, receive reimbursement for actual expenses incurred in carrying out the duties  
5476 of such office; provided, however, such reimbursement shall not exceed the rates and  
5477 allowances set for state employees by the Office of Planning and Budget or the mileage  
5478 allowance for use of a personal car as that received by all other state officials and  
5479 employees or a travel allowance of actual transportation cost if traveling by public  
5480 carrier;
- 5481 (12) Each community service board shall elect a chairperson and vice chairperson from  
5482 among its membership. The members shall also elect a secretary and treasurer from  
5483 among its membership or may designate the executive director of the community service  
5484 board to serve in one or both offices. Such officers shall serve for such terms as shall be  
5485 prescribed in the bylaws of the community service board or until their respective  
5486 successors are elected and qualified. No member shall hold more than one office of the  
5487 community service board; except that the same person may serve as secretary and  
5488 treasurer. The bylaws of the community service board shall provide for any other officers  
5489 of such board and the means of their selection, the terms of office of the officers, and an  
5490 annual meeting to elect officers;
- 5491 (13) Each community service board may have a seal and alter it;
- 5492 (14) Each community service board may contract with the State Merit System of  
5493 Personnel Administration regarding its personnel who remain in the classified service;
- 5494 (15) Each community service board may establish fees, rates, rents, and charges for the  
5495 use of facilities of the community service board for the provision of disability services  
5496 or of health services through the Department of Health, in accordance with the terms of  
5497 contracts entered into with the department, Department of Human Services, or  
5498 Department of Health, as appropriate;
- 5499 (16) Each community service board may borrow money for any business purpose and  
5500 may incur debt, liabilities, and obligations for any business purpose. A debt, liability, or

5501 obligation incurred by a community service board shall not be considered a debt, liability,  
 5502 or obligation of the state or any county or any municipality or any political subdivision  
 5503 of the state. A community service board may not borrow money as permitted by this  
 5504 Code section if the highest aggregate annual debt service requirements of the then current  
 5505 fiscal year or any subsequent year for outstanding borrowings of the community service  
 5506 board, including the proposed borrowing, exceed 15 percent of the total revenues of the  
 5507 community service board in its fiscal year immediately preceding the fiscal year in which  
 5508 such debt is to be incurred. Interest paid upon such borrowings shall be exempt from  
 5509 taxation by the state or its political subdivisions. A state contract with a community  
 5510 service board shall not be used or accepted as security or collateral for a debt, liability,  
 5511 or obligation of a community service board without the prior written approval of the  
 5512 commissioner;

5513 (17) Each community service board, to the extent authorized by law and the contract for  
 5514 the funds involved, may carry forward without lapse fund balances and establish  
 5515 operating, capital, and debt reserve accounts from revenues and grants derived from state,  
 5516 county, and all other sources; and

5517 (18) Each community service board may operate, establish, or operate and establish  
 5518 facilities deemed by the community service board as necessary and convenient for the  
 5519 administration, operation, or provision of disability services or of health services by the  
 5520 community service board and may construct, reconstruct, improve, alter, repair, and equip  
 5521 such facilities to the extent authorized by state and federal law.

5522 (c) Nothing shall prohibit a community service board from contracting with any county  
 5523 governing authority, private or other public provider, or hospital for the provision of  
 5524 disability services or of health services.

5525 (d) Each community service board exists for nonprofit and public purposes, and it is found  
 5526 and declared that the carrying out of the purposes of each community service board is  
 5527 exclusively for public benefit and its property is public property. Thus, no community  
 5528 service board shall be required to pay any state or local ad valorem, sales, use, or income  
 5529 taxes.

5530 (e) A community service board ~~does~~ shall not have the power to tax, the power to issue  
 5531 general obligation bonds or revenue bonds or revenue certificates, or the power to  
 5532 financially obligate the state or any county or any municipal corporation.

5533 (f) A community service board shall not operate any facility for profit. A community  
 5534 service board may fix fees, rents, rates, and charges that are reasonably expected to produce  
 5535 revenues, which, together with all other funds of the community service board, will be  
 5536 sufficient to administer, operate, and provide the following:

5537 (1) Disability services or health services;

- 5538 (2) The cost of acquiring, constructing, equipping, maintaining, repairing, and operating  
5539 its facilities; and
- 5540 (3) The creation and maintenance of reserves sufficient to meet principal and interest  
5541 payments due on any obligation of the community service board.
- 5542 (g) Each community service board may provide reasonable reserves for the improvement,  
5543 replacement, or expansion of its facilities and services. Reserves under this subsection  
5544 shall be subject to the limitations in paragraph (16) of subsection (b) of this Code section.
- 5545 (h) Each county and municipal corporation of this state is authorized to convey or lease  
5546 property of such county or municipal corporation to a community service board for its  
5547 public purposes. Any property conveyed or leased to a community services board by a  
5548 county or municipal corporation shall be operated by such community service board in  
5549 accordance with this chapter and the terms of the community service board's agreements  
5550 with the county or municipal corporation providing such conveyance or lease.
- 5551 (i) Each community service board shall keep books of account reflecting all funds  
5552 received, expended, and administered by the community service board which shall be  
5553 independently audited annually.
- 5554 (j) A community service board may create, form, or become a member of a nonprofit  
5555 corporation, limited liability company, or other nonprofit entity, the voting membership of  
5556 which shall be limited to community service boards, governmental entities, nonprofit  
5557 corporations, or a combination thereof, if such entity is created for purposes that are within  
5558 the powers of the community service board, for the cooperative functioning of its members,  
5559 or a combination thereof; provided, however, that no funds provided pursuant to a contract  
5560 between the department, Department of Human Services, or Department of Health and the  
5561 community service board may be used in the formation or operation of the nonprofit  
5562 corporation, limited liability company, or other nonprofit entity. No community service  
5563 board, whether or not it exercises the power authorized by this subsection, shall be relieved  
5564 of compliance with Chapter 14 of Title 50, relating to open and public meetings, and  
5565 Article 4 of Chapter 18 of Title 50, relating to inspection of public records, unless  
5566 otherwise provided by law.
- 5567 (k) No community service board shall employ or retain in employment, either directly or  
5568 indirectly through contract, any person who is receiving a retirement benefit from the  
5569 Employees' Retirement System of Georgia except in accordance with the provisions of  
5570 subsection (c) of Code Section 47-2-110; provided, however, that any such person who is  
5571 employed as of July 1, 2004, may continue to be employed.
- 5572 (l) A community service board may join or form and operate, either directly or indirectly,  
5573 one or more networks of community service boards, disability or health service  
5574 professionals, and other providers of disability services or health services to arrange for the

5575 provision of disability services or health services through such networks; to contract either  
5576 directly or through such networks with the Department of Community Health to provide  
5577 services to Medicaid beneficiaries; to provide disability services or health services in an  
5578 efficient and cost-effective manner on a prepaid, capitation, or other reimbursement basis;  
5579 and to undertake other disability or health services related managed care activities. For  
5580 purposes of this subsection only and notwithstanding Code Section 33-3-3 or any other  
5581 provision of law, a community service board shall be permitted to and shall comply with  
5582 the requirements of Chapter 20A of Title 33 to the extent that such requirements apply to  
5583 the activities undertaken by the community service board or by a community service board  
5584 under this subsection or subsection (j) of this Code section. No community service board,  
5585 whether or not it exercises the powers authorized by this subsection, shall be relieved of  
5586 compliance with Article 4 of Chapter 18 of Title 50, relating to inspection of public  
5587 records, unless otherwise provided by law. Any licensed health care provider shall be  
5588 eligible to apply to become a participating provider under such a plan or network that  
5589 provides coverage for health care, or disability services, or health services which are within  
5590 the lawful scope of the provider's license, but nothing in this Code section shall be  
5591 construed to require any such plan or network to provide coverage for any specific health  
5592 care, or disability service, or health service.

5593 37-2-6.2.

5594 (a)(1) Those employees whose job descriptions, duties, or functions as of June 30, 1994,  
5595 included the performance of employment duties or functions which will become  
5596 employment duties or functions of the personnel of a community service board on July  
5597 1, 1994, shall become employees of the applicable community service boards on and after  
5598 July 1, 1994. Such employees shall be subject to the employment practices and policies  
5599 of the applicable community service board on and after July 1, 1994. Employees who are  
5600 subject to the State Merit System of Personnel Administration and who are transferred  
5601 to a community service board shall retain all existing rights under the State Merit System  
5602 of Personnel Administration. Retirement rights of such transferred employees existing  
5603 under the Employees' Retirement System of Georgia or other public retirement systems  
5604 on June 30, 1994, shall not be impaired or interrupted by the transfer of such employees  
5605 and membership in any such retirement system shall continue in the same status  
5606 possessed by the transferred employees on June 30, 1994, without any interruption in  
5607 membership service and without the loss of any creditable service. For purposes of  
5608 coverage under the Employees' Retirement System of Georgia, such employees  
5609 transferred to the community service boards on July 1, 1994, shall be deemed to be state  
5610 employees. Accrued annual and sick leave possessed by said employees on June 30,

5611 1994, shall be retained by said employees as employees of the community service board.  
 5612 Any person who is granted employment rights and benefits as a member of a community  
 5613 service board pursuant to this subsection and who later becomes employed, without any  
 5614 break in service, by the ~~division~~ department, Department of Human Services, or  
 5615 Department of Health, a hospital thereof, another community service board, a county  
 5616 board of health for which such person provides services pursuant to this title, or a  
 5617 regional board shall retain, in that later employment position, all such rights and benefits.  
 5618 Such rights and benefits shall also be retained by any person who is employed on June  
 5619 30, 1994, by the ~~division~~ former Division of Mental Health, Developmental Disabilities,  
 5620 and Addictive Diseases (now known as the Department of Behavioral Health) of the  
 5621 former Department of Human Resources, a hospital thereof, a county board of health for  
 5622 which such person provides services pursuant to this title, or a regional board and who  
 5623 later becomes employed, without any break in service, by a community service board.

5624 (2) Classified employees of a community service board under this chapter shall in all  
 5625 instances be employed and dismissed in accordance with rules and regulations of the  
 5626 State Merit System of Personnel Administration.

5627 (3) All rights, credits, and funds in the Employees' Retirement System of Georgia which  
 5628 are possessed by personnel transferred by provisions of this Code section to the  
 5629 community service boards are continued and preserved, it being the intention of the  
 5630 General Assembly that such persons shall not lose any rights, credits, or funds to which  
 5631 they may be entitled prior to becoming employees of the community service boards.

5632 (b) As to those persons employed by the ~~division~~ former Division of Mental Health,  
 5633 Developmental Disabilities, and Addictive Diseases (now known as the Department of  
 5634 Behavioral Health) of the former Department of Human Resources, a hospital thereof, or  
 5635 a regional board on June 30, 1994, any termination from state employment after that date  
 5636 of any such person who is a member of the classified service shall not result from the  
 5637 anticipated or actual employment or utilization by:

- 5638 (1) The department;
- 5639 (2) A regional board;
- 5640 (3) A community service board;
- 5641 (4) A hospital; or
- 5642 (5) The Department of Human Services;
- 5643 (6) The Department of Health; or
- 5644 (5)(7) Any private provider of disability services or health services of any person who  
 5645 is not an employee of the state or a political subdivision thereof to perform the duties and  
 5646 functions of such terminated state personnel unless such termination and utilization is the  
 5647 result of a reduction in appropriations for such duties or functions or is the result of a



5648 reduction in force caused by any other state department or agency which has ceased to  
5649 contract with the department, the Department of Human Services, or the Department of  
5650 Health for the services which had been provided by the terminated state personnel.

5651 37-2-6.3.

5652 (a) A community service board is a public body as provided in paragraph (1) of subsection  
5653 (c) of Code Section 37-2-11.1.

5654 (b) A community service board has the power to bring an action in its own name and, to  
5655 the extent otherwise authorized by law and to the extent not immune from suit, may be  
5656 sued in its own name. The state and the counties in which the community service board  
5657 operates shall not be considered a party to or liable under any such litigation.

5658 (c) Debts, obligations, and liabilities of a community service board are not; debts,  
5659 obligations, or liabilities of the state or of the counties in which such board operates. A  
5660 community service board is prohibited from entering into debts, obligations, or liabilities  
5661 which are also debts, obligations, or liabilities of the state or of any county.

5662 37-2-6.4.

5663 (a) Notwithstanding any other provisions of this chapter, a community service board may  
5664 reconstitute or convert its organizational structure in the following ways:

5665 (1) With the approval of the governing board of the community service board and the  
5666 approval of the county governing authorities of the counties served by the community  
5667 service board, the community service board may convert to a private nonprofit  
5668 corporation. So long as the reconstituted organization continues to serve a public purpose  
5669 as defined by the department, the Department of Human Services, or the Department of  
5670 Health, as appropriate, such organization shall be authorized to retain the use of assets,  
5671 equipment, and resources purchased with state and federal funds by the former  
5672 community service board. In the event the new private nonprofit fails to serve such  
5673 public purpose, those assets, equipment, and resources purchased by the former  
5674 community service board with state and federal funds shall be returned to the department,  
5675 the Department of Human Services, or the Department of Health, as appropriate, or to an  
5676 agency designated by the such department. For a period of three years following the  
5677 community service board's conversion to a private nonprofit corporation, the private  
5678 nonprofit corporation shall ensure that consumers of disability services or health services,  
5679 as appropriate, and family members of such consumers constitute a majority of the  
5680 appointed board members and that the various disability groups and health services  
5681 groups are equitably represented on the board of the nonprofit corporation;

5682 (2) With the approval of the governing board of the community service board and the  
 5683 approval of all of the county governing authorities of the counties served by the  
 5684 community service board, the community service board may convert to a unit of county  
 5685 government. All assets, equipment, and resources of the community service board shall  
 5686 be transferred to the new unit of county government; or

5687 (3) With the approval of the governing board of the community service board and the  
 5688 approval of all of the county governing authorities of the counties served by the  
 5689 community service board, the community service board may become a component part  
 5690 of a hospital authority in those counties served by the community service board. So long  
 5691 as the hospital authority continues to serve a public purpose as defined by the department,  
 5692 the Department of Human Services, or the Department of Health, as appropriate, the  
 5693 hospital authority shall be authorized to retain possession of those assets, equipment, and  
 5694 resources purchased by the community service board with state and federal funds. In the  
 5695 event the hospital authority fails to serve such public purpose, those assets, equipment,  
 5696 and resources purchased by the community service board with state and federal funds  
 5697 shall be returned to the department, the Department of Human Services, or the  
 5698 Department of Health, as appropriate, or to an agency designated by the such appropriate  
 5699 department or departments.

5700 (b) In the event that all county governing authorities of a community service area  
 5701 designated pursuant to subsection (b) of Code Section 37-2-3 concur that a community  
 5702 service board reconstituted pursuant to subsection (a) of this Code section has failed to  
 5703 provide disability services or health services as required, those county governing  
 5704 authorities may request that the ~~division~~ department coordinate the formation of a new  
 5705 community service board pursuant to Code Section 37-2-6. Upon notification of the  
 5706 request, the ~~division~~ department shall assist the county governing authorities in making  
 5707 appointments to the new community service board and establishing bylaws pursuant to  
 5708 Code Section 37-2-6. The ~~division~~ department shall make a determination about the  
 5709 disposition of all assets, equipment, and resources purchased with state or federal funding  
 5710 in the possession of the predecessor agency. To the extent that the community service  
 5711 board was providing disability services or health services through the Department of  
 5712 Human Services or the Department of Health, such department or departments shall  
 5713 provide to the Department of Behavioral Health all documents, data, information, and  
 5714 consultation necessary or helpful to the formation of the new community service board and  
 5715 the determination and disposition of assets, equipment, and resources of the community  
 5716 service board.

5717 37-2-6.5.

5718 (a) By joint action of the membership of a community service board created pursuant to  
5719 Code Section 37-2-6 and the governing authority of each county within the community  
5720 service board area, such community service board may cease operations; provided,  
5721 however, such community service board shall notify the commissioner at least 90 days in  
5722 advance of the meeting of the community service board in which such action is to be taken.  
5723 Such joint action shall indicate the date on which the community service board shall cease  
5724 operations.

5725 (b) Upon receipt of notification that a community service board intends to cease  
5726 operations, the commissioner shall notify the chairperson and executive director of such  
5727 community service board and the governing authority of each county within the community  
5728 service board area of such board that:

5729 (1) The department, after securing the approval of the Governor, intends to appoint a  
5730 manager or management team to manage and operate the programs and services of the  
5731 community service board in accordance with the provisions of paragraph (1) of  
5732 subsection (c) of Code Section 37-2-10 until the ~~division~~ department shall determine:

5733 (A) That such community service board should continue in operation, provided one or  
5734 more members appointed to such board in accordance with subsection (b) of Code  
5735 Section 37-2-6 shall be removed in accordance with subparagraph (c)(3)(H) of Code  
5736 Section 37-2-10, and the ~~division~~ department, acting on behalf of the membership of  
5737 the community service board, nominates a successor to a removed member and advises  
5738 the county governing authority that appointed such removed member to appoint a  
5739 successor;

5740 (B) That all of the members of such community service board appointed in accordance  
5741 with subsection (b) of Code Section 37-2-6 shall be removed and such community  
5742 service board shall be reconstituted; and that the ~~division~~ department shall assist the  
5743 county governing authorities in making appointments to the new community service  
5744 board; or

5745 (C) In the case where the membership of such community service board is the  
5746 membership of a county board of health designated in accordance with Code Section  
5747 31-3-12.1 or subsection (e) of Code Section 37-2-6, that the entire membership of the  
5748 community service board should be removed and the membership of the community  
5749 service board be reconstituted in accordance with subsection (b) of Code Section  
5750 37-2-6;

5751 (2) The ~~division~~ department, with the approval of the commissioner, intends to  
5752 redesignate the boundaries of the community service board area served by such board  
5753 pursuant to paragraph (1) of subsection (b) of Code Section 37-2-3 by expanding the

5754 boundaries of an adjacent community service board area served by another community  
5755 service board to include the counties in the community service board area served by the  
5756 community service board that intends to cease operations so that the community service  
5757 board serving such adjacent area may assume responsibility for the provision of disability  
5758 services within such counties;

5759 (3) The department intends to request pursuant to Code Section 31-3-12.1 that the  
5760 governing authority of a county within the community service board area of such board  
5761 authorize the membership of the board of health of such county to serve as the  
5762 membership of such community service board; or

5763 (4) The department, after securing the approval of the Governor, intends to appoint a  
5764 manager or management team to manage and operate the programs and services of the  
5765 community service board until such time as arrangements can be made to secure one or  
5766 more alternate service providers to assume responsibility for the provision of services  
5767 previously provided by the community service board.

5768 (c) If a community service board ceases operation and is succeeded by another community  
5769 service board pursuant to paragraph (2), a county board of health pursuant to paragraph (3),  
5770 or a manager or management team pursuant to paragraph (4) of subsection (b) of this Code  
5771 section, the ~~division~~ department shall make a determination about the disposition of all  
5772 assets, equipment, and resources purchased with state or federal funding in the possession  
5773 of the predecessor community service board.

5774 (d) If a community service board ceases operation and one or more alternate service  
5775 providers assume responsibility for the provision of services previously provided by the  
5776 community service board pursuant to paragraph (4) of subsection (b) of this Code section,  
5777 the department shall petition the superior court of the county in which the principal office  
5778 of that community service board was located for appointment of a receiver of the assets of  
5779 the community service board for the protection of the board's creditors and the public. The  
5780 receiver shall be authorized to marshal and sell or transfer assets of the board, and, after  
5781 payment of the costs, expenses, and approved fees of the proceeding, to pay the liabilities  
5782 of the community service board. The court shall then decree that the board be dissolved.  
5783 Upon completion of the liquidation, any surplus remaining after paying all costs of the  
5784 liquidation shall be distributed, as determined by the court, to the agencies, entities, or  
5785 providers providing disability services in the community service board area formerly  
5786 served by the community service board which ceased operations. At no time shall any  
5787 community service board upon ceasing operations convey any of its property, except as  
5788 may be otherwise authorized by a superior court in this subsection, to any private person,  
5789 association, or corporation.

5790 37-2-7.

5791 (a) The ~~division~~ department shall formulate and publish biennially a state plan for  
5792 disability services which shall take into account the disability services plans submitted by  
5793 the regional offices as required by Code Section 37-2-5.2. The state disability services plan  
5794 shall be comprehensive and shall include public and private institutional and community  
5795 services to the disabled. In developing the state plan, the ~~division~~ department shall request  
5796 input from the regional offices and planning boards, the community service boards,  
5797 hospitals, and other public and private providers. The plan shall include an overview of  
5798 current services and programs and shall also present information on future program,  
5799 service, educational, and training needs.

5800 (b) The plan shall address ways of eliminating, to the extent possible, detrimental delays  
5801 and interruptions in the administration of disability services when moving an individual  
5802 from one element of service to another in order to ensure continuity of care and treatment  
5803 for persons receiving such services.

5804 (c) The plan shall further set forth the proposed annual budget of the ~~division~~ department  
5805 and the regions.

5806 (d) The plan shall be submitted to the department, the Governor, the General Assembly,  
5807 the ~~Governor's~~ council, the regional planning boards, the hospitals, the community service  
5808 boards, and any other public or private provider requesting a copy of the plan.

5809 (e) At such time as the state plan is submitted, the ~~division~~ department shall further submit  
5810 an analysis of services provided, programs instituted, progress made, and the extent of  
5811 implementation of the previous biennial plan. Such analysis shall measure the  
5812 effectiveness and the efficiency of the methods of delivering services which ameliorate or  
5813 prevent disability and restore health. This analysis shall further address the efforts of the  
5814 ~~division~~ department in coordinating services in accordance with Code Section 37-2-9.

5815 37-2-8.

5816 Reserved.

5817 37-2-9.

5818 To the maximum extent possible, disability services provided by the ~~division~~ department  
5819 and the regional offices, hospitals, community service boards, and other public and private  
5820 providers shall be coordinated with related activities of the department and judicial,  
5821 correctional, educational, social, and other health service agencies and organizations, both  
5822 private and public.

5823 37-2-9.1.

5824 (a) Each regional planning board and community service board shall comply with the  
5825 provisions of Chapter 14 of Title 50, relating to open and public meetings, and Article 4  
5826 of Chapter 18 of Title 50, relating to inspection of public records, except where records or  
5827 proceedings are expressly made confidential pursuant to other provisions of law.

5828 (b) Each regional office and community service board and other public and private  
5829 providers are authorized to establish one or more advisory boards for the purpose of  
5830 ensuring coordination with various agencies and organizations and providing professional  
5831 and other expert guidance.

5832 37-2-10.

5833 (a) Notwithstanding any other provisions of the law, the ~~director~~ commissioner with the  
5834 concurrence of ~~the commissioner~~ and the Governor is authorized to establish and  
5835 administer community programs on an emergency basis in the event one or more  
5836 community service boards fail to assume responsibility for the establishment and  
5837 implementation of an adequate range of disability services or to provide appropriate  
5838 disability services as determined by the ~~division~~ department or substantially breach their  
5839 contracts with the department pursuant to this chapter.

5840 (b) Upon notification by a community service board of an inability to provide an adequate  
5841 range of disability services or to provide appropriate services, the ~~director~~ commissioner,  
5842 with concurrence of ~~the commissioner~~ and the Governor, may:

5843 (1) Assume responsibility for the administration and operation of all of the community  
5844 programs operated by or through such board and, in which case, the programs shall  
5845 become department programs; the department shall acquire the assets of the community  
5846 service board; and the community service board employees shall become employees of  
5847 the department; or

5848 (2) Assume responsibility for the administration and operation of one or more of the  
5849 community programs operated by or through such board, in which case, such program  
5850 or programs shall become a department program or programs; the department shall  
5851 acquire those assets of the community service board assigned to such program or  
5852 programs; and the employees of such program or programs shall become employees of  
5853 the department. Any community service board programs not transferred to the  
5854 department shall continue to be operated by the community service board and the  
5855 employees for such programs shall remain community service board employees.

5856 (c)(1) Notwithstanding any other provisions of the law, in extenuating circumstances, the  
5857 ~~director~~ commissioner with the concurrence of ~~the commissioner~~ and the Governor is  
5858 authorized to appoint a manager or management team to manage and operate the

5859 programs and services of the community service board if the ~~director~~ commissioner finds  
5860 that the community service board:

5861 (A) Provides notice pursuant to Code Section 37-2-6.5 that such board intends to cease  
5862 operations;

5863 (B) Intentionally, recklessly, or negligently failed to discharge its duties pursuant to a  
5864 contract with the department;

5865 (C) Misused state or federal funds;

5866 (D) Engaged in a fraudulent act, transaction, practice, or course of business;

5867 (E) Endangered the life, safety, or health of a consumer served by the community  
5868 service board;

5869 (F) Failed to keep fiscal records and maintain proper control over its assets;

5870 (G) Failed to respond to a substantial deficiency in a review or audit;

5871 (H) Otherwise substantially failed to comply with this chapter or the rules or standards  
5872 of the department ~~or division~~; or

5873 (I) No longer has the fiscal ability to continue to provide contracted services and,  
5874 without the intervention of the department, continued provision of disability services  
5875 or health services to consumers in the service area is in immediate jeopardy.

5876 (2) In order to carry out the provisions of paragraph (1) of this subsection, the ~~director~~  
5877 commissioner shall give written notice to the community service board regarding the  
5878 appointment of a manager or management team and the circumstances on which the  
5879 appointment is based. The ~~director~~ commissioner may require the community service  
5880 board to pay costs incurred by the manager or management team.

5881 (3) Subject to the determination of the ~~director~~ commissioner, a manager or management  
5882 team appointed pursuant to this subsection may:

5883 (A) Evaluate, redesign, modify, administer, supervise, or monitor a procedure,  
5884 operation, or the management of the community service board;

5885 (B) Hire, supervise, discipline, reassign, or terminate the employment of an employee  
5886 of the community service board;

5887 (C) Reallocate the resources and manage the assets of the community service board;

5888 (D) Require that a financial transaction, expenditure, or contract for goods and services  
5889 be approved by the manager or management team;

5890 (E) Redesign, modify, or terminate a program or service of the community service  
5891 board;

5892 (F) Direct the members of the community service board, the executive director, chief  
5893 financial officer, or any other administrative or program manager to take an action;

5894 (G) Exercise a power, duty, authority, or function of the community service board as  
5895 authorized by this chapter;

5896 (H) Recommend to the ~~director~~ commissioner the removal of a member or the  
 5897 executive director of the community service board; and the provisions of any law to the  
 5898 contrary notwithstanding, the ~~director~~ commissioner may remove such member or  
 5899 executive director from office; and

5900 (I) Report at least monthly to the ~~director~~ commissioner on actions taken.

5901 (4) A manager or management team appointed pursuant to this subsection may not use  
 5902 or dispose of any asset or funds contributed to the community service board by the  
 5903 governing authority of a county or municipal corporation without the approval of such  
 5904 governing authority.

5905 (5) If a manager or management team is appointed pursuant to this Code section, the  
 5906 department may:

5907 (A) Upon a determination that the conditions that gave rise to the appointment of a  
 5908 manager or management team pursuant to this subsection have been met and that such  
 5909 manager or management team is no longer necessary, terminate the authority delegated  
 5910 to such manager or management team and restore authority to the community service  
 5911 board to manage and operate the services and programs of the community service  
 5912 board; or

5913 (B) Operate and manage the programs of the community service board until such time  
 5914 as arrangements can be made to secure one or more alternative service providers to  
 5915 assume responsibility for the provision of services previously provided by the  
 5916 community service board. If this option is exercised, the department shall petition the  
 5917 appropriate superior court for appointment of a receiver pursuant to subsection (d) of  
 5918 Code Section 37-2-6.5.

5919 (6) Nothing in this subsection shall be construed to prohibit the department from  
 5920 canceling a contract with a community service board.

5921 37-2-11.

5922 (a) It is the goal of the State of Georgia that every citizen be provided an adequate level  
 5923 of disability care through a unified system of disability services. To this end, the  
 5924 department ~~through the division~~ shall, to the maximum extent possible, allocate funds  
 5925 available for services so as to provide an adequate disability services program available to  
 5926 all citizens of this state. In funding and providing disability services, the ~~division~~  
 5927 department and the regional offices shall ensure that all providers, public or private, meet  
 5928 minimum standards of quality and competency as established by the department ~~and the~~  
 5929 division.

5930 (b) Fees generated, if any, by hospitals, community service boards, and other private and  
 5931 public providers, providing services under contract or purview of the ~~division~~ department,



5932 shall be reported to the ~~division~~ department and applied wherever appropriate against the  
 5933 cost of providing, and increasing the quantity and quality of, disability services; provided,  
 5934 however, that income to a community service board derived from fees may be used to  
 5935 further the purposes of such community service board as found in Code Section 37-3-6.1,  
 5936 subject to appropriations. The ~~division~~ department shall be responsible for developing  
 5937 procedures to properly account for the collection, remittance, and reporting of generated  
 5938 fees. The ~~division~~ department shall work with the community service boards and other  
 5939 public or private providers to develop an appropriate mechanism for accounting for the  
 5940 funds and resources contributed to local disability services by counties and municipalities  
 5941 within the area. Such contributions are not required to be submitted to either the  
 5942 community service boards or the ~~division~~ department; however, appropriate documentation  
 5943 and accounting entries shall make certain that the county or municipality is credited, and  
 5944 if necessary compensated, appropriately for such contribution of funds or resources.

5945 (c) No person shall be denied disability services provided by the state as defined in this  
 5946 chapter based on age, gender, race, ethnic origin, or inability to pay; provided, however,  
 5947 unless otherwise prohibited by law or contract, providers of disability services may deny  
 5948 nonemergency disability services to any person who is able to pay, but who refuses to pay.  
 5949 The ~~division~~ department shall develop a state-wide sliding fee scale for the provision of  
 5950 disability services and shall promulgate standards that define emergency disability services  
 5951 and refusal to pay.

5952 37-2-11.1.

5953 (a) Venue for the purpose of any action against a community service board shall be the  
 5954 county in which the principal office of the community service board is located. For  
 5955 purposes of this Code section, 'principal office' shall be defined as the facility which houses  
 5956 the executive director or other such top administrator for the community service board.

5957 (b) In any legal proceeding, a regional planning board or the regional office shall be  
 5958 considered a unit of the ~~division~~ department and shall be afforded the assistance of legal  
 5959 counsel from the Attorney General.

5960 (c)(1) The community service boards shall be public bodies but shall not be considered  
 5961 agencies of the state or any specific county or municipality. Such community service  
 5962 boards are public agencies in their own right and shall have the same immunity as  
 5963 provided for counties. No county shall be liable for any action, error, or omission of a  
 5964 community service board. Notwithstanding any provisions of law to the contrary, and  
 5965 regardless of any provisions of law which grant employees of the community service  
 5966 boards benefits under programs operated by the state or which deem them to be state  
 5967 employees only for purposes of those benefits, employees of the community service

5968 boards shall not be employees of the state but shall be employees of the community  
 5969 service boards and, further, the state shall not be liable for any action, error, or omission  
 5970 of such employees.

5971 (2) A community service board may employ or contract for legal counsel to assist in  
 5972 performing its duties and shall be authorized to appoint legal counsel to represent the  
 5973 community service board and its employees. The community service board may exercise  
 5974 any authority granted in Article 2 of Chapter 9 of Title 45, relating to the indemnification,  
 5975 defense, and insuring of members and employees of public bodies.

5976 37-2-11.2.

5977 (a) Notwithstanding any other law to the contrary, to ensure the quality and integrity of  
 5978 patient and client care, any program receiving any public funds from, or subject to  
 5979 licensing, certification, or facility approval by, the department, the Department of Human  
 5980 ~~Resources~~ Services, the Department of Health, or a regional office shall be required to  
 5981 provide the department or the appropriate regional office or both, upon request, complete  
 5982 access to, including but not limited to authorization to examine and reproduce, any records  
 5983 required to be maintained in accordance with contracts, standards, or rules and regulations  
 5984 of the department, the Department of Human ~~Resources~~ Services, or the Department of  
 5985 Health or pursuant to the provisions of this title.

5986 (b) Records obtained pursuant to subsection (a) of this Code section shall not be  
 5987 considered public records and shall not be released by the department, the Department of  
 5988 Human Services, the Department of Health, or any regional office unless otherwise  
 5989 specifically authorized by law.

5990 (c) The community service board shall maintain a clinical record for each consumer  
 5991 receiving treatment or habilitation services from such board. The treatment of clinical  
 5992 records of consumers in receiving services for mental illness shall be governed by the  
 5993 provisions of Code Section 37-3-166. The treatment of clinical records of consumers  
 5994 receiving habilitation services for developmental disabilities shall be governed by the  
 5995 provisions of Code Section 37-4-125. The treatment of clinical records of consumers in  
 5996 treatment for addictive diseases shall be governed by the provisions of Code Section  
 5997 37-7-166."

5998 **SECTION 3-2.**

5999 The following Code sections of the Official Code of Georgia Annotated are amended by  
 6000 replacing "Department of Human Resources" wherever it occurs with "Department of  
 6001 Behavioral Health":

6002 (1) Code Section 15-11-73, relating to juvenile traffic offenses;

- 6003 (2) Code Section 15-11-152, relating to ordering an evaluation of a child's mental  
6004 condition;
- 6005 (3) Code Section 16-7-83, relating to persons convicted or under indictment for certain  
6006 offenses;
- 6007 (4) Code Section 16-11-129, relating to license to carry pistol or revolver;
- 6008 (5) Code Section 17-7-130, relating to proceedings upon plea of mental incompetency  
6009 to stand trial;
- 6010 (6) Code Section 17-7-131, relating to proceedings upon plea of insanity or mental  
6011 incompetency at time of crime;
- 6012 (7) Code Section 26-4-5, relating to definitions relative to the "Georgia Pharmacy  
6013 Practice Act";
- 6014 (8) Code Section 33-24-28, relating to termination of coverage of dependent child upon  
6015 attainment of specified age;
- 6016 (9) Code Section 37-3-146, relating to education of children undergoing treatment in a  
6017 facility for persons who are mentally ill;
- 6018 (10) Code Section 37-3-150, relating to right to appeal orders of probate court, juvenile  
6019 court, or hearing examiner;
- 6020 (11) Code Section 37-4-4, relating to coordination of training programs for the mentally  
6021 retarded;
- 6022 (12) Code Section 37-4-110, relating to appeal rights of clients, their representatives, or  
6023 attorneys relating to habilitation of mentally retarded persons;
- 6024 (13) Code Section 37-5-4, relating to applicability of the "Community Services Act for  
6025 the Mentally Retarded";
- 6026 (14) Code Section 37-5-7, relating to duty of the Department of Human Resources to  
6027 provide consulting and financial assistance to county boards of health;
- 6028 (15) Code Section 37-7-3, relating to coordination of state drug and alcohol abuse  
6029 programs;
- 6030 (16) Code Section 37-7-146, relating to education of children undergoing treatment in  
6031 a facility for persons who are alcoholics, drug dependent individuals, or drug abusers;
- 6032 (17) Code Section 37-7-150, relating to right to appeal orders of probate court, juvenile  
6033 court, or hearing examiner;
- 6034 (18) Code Section 40-5-82, relating to administration of the Driver Improvement  
6035 Program;
- 6036 (19) Code Section 42-1-13, relating to the Sexual Offender Registration Review Board;
- 6037 (20) Code Section 42-8-35.3, relating to conditions of probation for stalking or  
6038 aggravated stalking;

- 6039 (21) Code Section 42-9-41, relating to duty of the State Board of Pardons and Paroles  
 6040 to obtain and place in records information respecting persons subject to relief or placed  
 6041 on probation;
- 6042 (22) Code Section 43-12A-5, relating to provider centers that engage in the practice of  
 6043 providing, installing, or monitoring ignition interlock devices not to operate under any  
 6044 name deceptively similar to another business;
- 6045 (23) Code Section 45-9-4.2, relating to liability coverage for nonprofit agencies  
 6046 providing services to the mentally retarded;
- 6047 (24) Code Section 49-5-221, relating to definitions relative to children and adolescents  
 6048 with severe emotional problems;
- 6049 (25) Code Section 49-5-223, relating to the State Plan for the Coordinated System of  
 6050 Care for children and adolescents with severe emotional problems;
- 6051 (26) Code Section 49-5-224, relating to the submission by the commissioner of human  
 6052 resources of an annual report on the State Plan for the Coordinated System of Care;
- 6053 (27) Code Section 49-5-227, relating to the Governor's Office for Children and Families  
 6054 to comment on the State Plan for Coordinated System of Care and provide  
 6055 recommendations; and
- 6056 (28) Code Section 50-27-24, relating to lottery prize proceeds subject to state income tax.

6057

**SECTION 3-3.**

6058 The following Code sections of the Official Code of Georgia Annotated are amended by  
 6059 replacing "commissioner of human resources" wherever it occurs with "commissioner of  
 6060 behavioral health":

- 6061 (1) Code Section 42-1-13, relating to the Sexual Offender Registration Review Board;  
 6062 and
- 6063 (2) Code Section 49-5-224, relating to the submission by the commissioner of human  
 6064 resources of an annual report on the State Plan for the Coordinated System of Care;

6065

**SECTION 3-4.**

6066 The following Code sections of the Official Code of Georgia Annotated are amended by  
 6067 replacing "Division of Mental Health, Developmental Disabilities, and Addictive Diseases  
 6068 of the Department of Human Resources" wherever it occurs with "Department of Behavioral  
 6069 Health":

- 6070 (1) Code Section 15-11-149, relating to disposition of mentally ill or mentally retarded  
 6071 child;
- 6072 (2) Code Section 40-5-64, relating to limited driving permits for certain offenders;
- 6073 (3) Code Section 45-18-5.2, relating to sheltered employment center employees; and

6074 (4) Code Section 49-4A-9, relating to sentence of youthful offenders.

6075 **SECTION 3-5.**

6076 The following Code sections of the Official Code of Georgia Annotated are amended by  
6077 replacing "mentally retarded" or "Mentally Retarded" wherever it occurs with  
6078 "developmentally disabled" or "Developmentally Disabled", respectively:

6079 (1) Code Section 31-22-9.1, relating to who may perform HIV tests;

6080 (2) Code Section 35-1-8, relating to the acquisition, collection, classification, and  
6081 preservation of information assisting in identifying deceased persons and locating missing  
6082 persons;

6083 (3) Code Section 35-3-34.1, relating to circumstances when exonerated first offender's  
6084 criminal record may be disclosed;

6085 (4) Code Section 37-4-1, relating to the declaration of policy relating to the habilitation  
6086 of mentally retarded persons generally;

6087 (5) Code Section 37-4-3, relating to the authority of the board of human resources to  
6088 issue regulations relating to the habilitation of mentally retarded persons generally;

6089 (6) Code Section 37-4-4, relating to coordination of training programs for the mentally  
6090 retarded;

6091 (7) Code Section 37-4-5, relating to validity of hospital orders entered before September  
6092 1, 1978;

6093 (8) Code Section 37-4-8, relating to approval of private facilities;

6094 (9) Code Section 37-4-20, relating to examination of minor children;

6095 (10) Code Section 37-4-21, relating to admission of mentally retarded persons to  
6096 facilities for purposes of temporary supervision and care;

6097 (11) Code Section 37-4-22, relating to admission of persons to facilities for dental  
6098 services;

6099 (12) Code Section 37-4-40, relating to filing petition with the court for according of  
6100 program of services to mentally retarded person;

6101 (13) Code Section 37-4-40.1, relating to certification that a person requires temporary  
6102 care;

6103 (14) Code Section 37-4-40.2, relating to admission or discharge of a person in custody  
6104 of a state facility for temporary care;

6105 (15) Code Section 37-4-42, relating to procedure for continuation of court ordered  
6106 habilitation;

6107 (16) Code Section 37-4-62, relating to transfer of clients to custody of federal agencies  
6108 for services;

6109 (17) Code Section 37-4-120, relating to individual dignity of clients to be respected;

- 6110 (18) Code Section 37-4-123, relating to recognition of clients' physical integrity;
- 6111 (19) Code Section 37-5-1, relating to the short title;
- 6112 (20) Code Section 37-5-2, relating to declaration of policy relative to community
- 6113 services for the mentally retarded;
- 6114 (21) Code Section 37-5-4, relating to applicability of chapter;
- 6115 (22) Code Section 37-5-5, relating to duty of county board of health to provide
- 6116 community services;
- 6117 (23) Code Section 37-5-6, relating to county or health district plan for community
- 6118 services;
- 6119 (24) Code Section 37-5-7, relating to duty of department to provide consulting and
- 6120 financial assistance to county boards of health;
- 6121 (25) Code Section 37-5-10, relating to timetable for implementation of this chapter;
- 6122 (26) Code Section 37-6-2, relating to participation by department in financing of
- 6123 day-care centers for mentally retarded children;
- 6124 (27) Code Section 37-6-3, relating to participation by department in financing of
- 6125 day-care centers generally;
- 6126 (28) Code Section 37-6-4, relating to grants-in-aid to county board of health for purchase
- 6127 of services from private day-care centers;
- 6128 (29) Code Section 37-6-6, relating to inspection and approval of day-care centers;
- 6129 (30) Code Section 37-6-7, relating to departmental standards for day-care centers;
- 6130 (31) Code Section 37-9-6, relating to standards for determination of assessments for less
- 6131 than full cost of care;
- 6132 (32) Code Section 42-8-63.1, relating to discharges disqualifying individuals from
- 6133 employment;
- 6134 (33) Code Section 45-9-4.2, relating to liability coverage for nonprofit agencies
- 6135 providing services to the mentally retarded;
- 6136 (34) Code Section 49-4-51, relating to definitions relative to the "Aid to the Blind Act";
- 6137 and
- 6138 (35) Code Section 49-4-80, relating to definitions relative to aid to the disabled.

6139 **SECTION 3-6.**

6140 The following Code sections of the Official Code of Georgia Annotated are amended by

6141 replacing "mental retardation" wherever it occurs with "developmental disability":

- 6142 (1) Code Section 31-12-3.2, relating to meningococcal disease;
- 6143 (2) Code Section 31-32-4, relating to the advance directives for health care form;
- 6144 (3) Code Section 33-24-28, relating to termination of coverage of dependent child upon
- 6145 attainment of specified age;

- 6146 (4) Code Section 37-4-40.4, relating to evaluation of a person in custody of a state  
6147 facility for temporary care;
- 6148 (5) Code Section 37-4-61, relating to transportation of clients generally;
- 6149 (6) Code Section 49-4-31, relating to definitions relative to old-age assistance;
- 6150 (7) Code Section 49-4-51, relating to definitions relative to the "Aid to the Blind Act";  
6151 and
- 6152 (8) Code Section 49-4-80, relating to definitions relative to aid to the disabled.

### 6153 SECTION 3-7.

- 6154 The following Code sections of the Official Code of Georgia Annotated are amended by  
6155 replacing "mental retardation" wherever it occurs with "a developmental disability":
- 6156 (1) Code Section 31-20-3, relating to sterilization of mentally incompetent persons;
- 6157 (2) Code Section 37-4-80, relating to effect of inability to pay on right to habilitation  
6158 services;
- 6159 (3) Code Section 37-4-100, relating to retention of rights and privileges by clients  
6160 generally; and
- 6161 (4) Code Section 37-4-122, relating to client's care and treatment rights.

### 6162 SECTION 3-8.

- 6163 Code Section 30-8-1 of the Official Code of Georgia Annotated, relating to the Governor's  
6164 Council on Developmental Disabilities, is amended as follows:
- 6165 "30-8-1.
- 6166 (a) There is created the ~~Governor's~~ Georgia Council on Developmental Disabilities. The  
6167 council shall serve as the designated state agency and state planning council for purposes  
6168 of carrying out the provisions of Chapter 75 of Title 42 of the United States Code, as now  
6169 or hereafter amended, relating to programs for persons with developmental disabilities.
- 6170 (b) The members of the council shall be appointed by the Governor from among the  
6171 residents of the state, and the composition of the council shall comply with the membership  
6172 requirements of Chapter 75 of Title 42 of the United States Code, as now or hereafter  
6173 amended. The Governor shall consider appointing to the council persons representing a  
6174 broad range of individuals with developmental disabilities and individuals interested in  
6175 programs for the developmentally disabled. To the extent feasible, appointments to the  
6176 council shall be made with a view toward equitable geographic, racial, and ethnic  
6177 representation.
- 6178 (c) Each member shall serve for a term of four years or until a successor is appointed.  
6179 Members shall be eligible to succeed themselves. Vacancies shall be filled in the same  
6180 manner as original appointments. The council shall elect its own chairperson and such

6181 other officers as it deems necessary. The council may adopt rules and procedures and shall  
6182 meet at the call of the chairperson.

6183 (d) The ~~Governor's~~ Georgia Council on Developmental Disabilities shall:

6184 (1) Develop and implement a state plan, which includes the specification of federal and  
6185 state priority areas, to address on a state-wide and comprehensive basis the need for  
6186 services, support, and other assistance for individuals with developmental disabilities and  
6187 their families;

6188 (2) Monitor, review, and evaluate, not less than annually, the implementation and  
6189 effectiveness of the plan;

6190 (3) Submit to the United States secretary of health and human services, through the  
6191 Governor, such plan and periodic reports on the council's activities as the secretary finds  
6192 necessary;

6193 (4) Receive, account for, and disburse funds paid to the state pursuant to the provisions  
6194 of Chapter 75 of Title 42 of the United States Code, as now or hereafter amended, and  
6195 as authorized by the approved state plan;

6196 (5) To the maximum extent feasible, review and comment on all plans in the state which  
6197 relate to programs affecting persons with developmental disabilities;

6198 (6) Serve as an advocate for persons with developmental disabilities;

6199 (7) Advise the Governor, the General Assembly, and all other state agencies in matters  
6200 relating to developmentally disabled persons; and

6201 (8) Fulfill the responsibilities and meet the requirements of a designated state agency and  
6202 of a state planning council as provided by Chapter 75 of Title 42 of the United States  
6203 Code, as now or hereafter amended.

6204 (e) The ~~Governor's~~ Georgia Council on Developmental Disabilities shall be attached to the  
6205 Department of ~~Human Resources~~ Behavioral Health for administrative purposes only as  
6206 provided in Code Section 50-4-3. The council shall recruit and hire staff as provided by  
6207 law and as the council determines necessary to carry out its duties. All costs incurred by  
6208 the council shall be covered by funds paid to the state under Chapter 75 of Title 42 of the  
6209 United States Code, as now or hereafter amended, except that members who are state  
6210 employees shall be reimbursed for their expenses by their agency in the same manner as  
6211 other state employees. Members who are not state employees shall be reimbursed for their  
6212 actual expenses, including travel and any other expenses incurred in performance of their  
6213 council duties, from funds appropriated to the Department of ~~Human Resources~~ Behavioral  
6214 Health."



**SECTION 3-9.**

6215  
6216 Code Section 37-4-2 of the Official Code of Georgia Annotated, relating to definitions  
6217 relative to the habilitation of the mentally retarded, is amended as follows:

6218 "37-4-2.

6219 As used in this chapter, the term:

6220 (1) 'Client' means any ~~mentally retarded~~ developmentally disabled person who seeks  
6221 habilitation under this chapter or any person for whom such habilitation is sought.

6222 (2) 'Clinical record' means a written record pertaining to an individual client and includes  
6223 habilitation record, progress notes, charts, admission and discharge data, and all other  
6224 information which is recorded by a facility and which pertains to the client's habilitation.  
6225 Such other information as may be required by rules and regulations of the board shall also  
6226 be included.

6227 (3) 'Community services' means all services deemed reasonably necessary by the  
6228 Department of ~~Human Resources~~ Behavioral Health to provide for the education,  
6229 training, habilitation, and care of ~~mentally retarded~~ developmentally disabled individuals.  
6230 Such services shall include, but not be limited to, diagnostic and evaluation services,  
6231 day-care and training services, work activity services, community residential services  
6232 such as group family care homes, transportation services, social services, medical  
6233 services, and specified home services.

6234 (4) 'Comprehensive evaluation team' or 'comprehensive habilitation team' means and  
6235 shall consist of a group of persons with special training and experience in the assessment  
6236 of needs and provision of services for ~~mentally retarded~~ developmentally disabled  
6237 persons, which group shall include, at a minimum, persons qualified to provide social,  
6238 psychological, medical, and other services. The department shall specify the  
6239 qualifications of the individuals who ~~compose~~ comprise a comprehensive evaluation team  
6240 or a comprehensive habilitation team and shall ensure that such teams are located  
6241 throughout the state so as to provide diagnostic, evaluation, and habilitation services for  
6242 all citizens of Georgia.

6243 (5) 'Court' means:

6244 (A) In the case of an individual who is 17 years of age or older, the probate court of the  
6245 county of residence of the client or the county in which such client is found.  
6246 Notwithstanding Code Section 15-9-13, in any case in which the judge of said probate  
6247 court is unable to hear a case brought under this chapter within the time required for  
6248 such hearing, said judge shall appoint a person to serve and exercise all the jurisdiction  
6249 of the probate court in such case. Any person so appointed shall be a member of the  
6250 State Bar of Georgia and shall be otherwise qualified for his or her duties by training  
6251 and experience. Such appointment may be made on a case-by-case basis or by making

6252 a standing appointment of one or more persons. Any person receiving such standing  
 6253 appointment shall serve at the pleasure of the judge making the appointment or ~~his~~ the  
 6254 judge's successor in office to hear such cases if and when necessary. The compensation  
 6255 of a person so appointed shall be as agreed upon by the judge who makes the  
 6256 appointment and the person appointed with the approval of the governing authority of  
 6257 the county for which such person is appointed and shall be paid from the county funds  
 6258 of said county. All fees collected for the services of such appointed person shall be  
 6259 paid into the general funds of the county served; or

6260 (B) In the case of an individual who is under the age of 17 years, the juvenile court of  
 6261 the county of residence of the client or the county in which such client is found.

6262 (6) 'Department' means the Department of Behavioral Health.

6263 (7) 'Developmental disability' means a severe, chronic disability of an individual that:

6264 (A) Is attributable to a mental, cognitive, or physical impairment, or any combination  
 6265 of mental, cognitive, and physical impairments;

6266 (B) Is manifested before the individual attains age 22 except in cases of traumatic brain  
 6267 injury when age is not a variable;

6268 (C) Is likely to continue indefinitely;

6269 (D) Results in substantial functional limitations in three or more of the following areas  
 6270 of major life activities:

6271 (i) Self-care;

6272 (ii) Receptive and expressive language;

6273 (ii) Learning;

6274 (iv) Mobility;

6275 (v) Self-direction;

6276 (vi) Capacity for independent living; and

6277 (vii) Economic self-sufficiency; and

6278 (E) Reflects the person's need for a combination and sequence of special,  
 6279 interdisciplinary, or generic services, individualized supports, or other forms of  
 6280 assistance which are of lifelong or extended duration and are individually planned and  
 6281 coordinated.

6282 When applied to infants and young children, the term means individuals from birth to age  
 6283 nine years, inclusive, who have substantial developmental delay or specific congenital  
 6284 or acquired conditions with a high probability of resulting in developmental disabilities  
 6285 if services or supports are not provided.

6286 (8) 'Developmentally disabled person' means a person having a significantly subaverage  
 6287 general intellectual functioning existing concurrently with deficits in adaptive behavior  
 6288 and originating in the developmental period.

6289 (9) 'Developmentally disabled person in need of community services' means a  
 6290 developmentally disabled person who, after comprehensive evaluation and a hearing, is  
 6291 found to be in need of community services as defined in Code Section 37-5-3.

6292 (10) 'Developmentally disabled person requiring temporary and immediate care' means  
 6293 a person who is developmentally disabled, and:

6294 (A) Who presents a substantial risk of imminent harm to himself or herself or others;

6295 (B) Who is in need of immediate care, evaluation, stabilization, or treatment for certain  
 6296 developmental, medical, or behavioral needs; and

6297 (C) For whom there currently exists no available, appropriate community residential  
 6298 setting for meeting the needs of the person.

6299 ~~(6)~~(11) 'Facility' means any state owned or state operated institution utilized 24 hours a  
 6300 day for the habilitation and residence of persons who are ~~mentally retarded~~  
 6301 developmentally disabled, any facility operated or utilized for such purpose by the United  
 6302 States Department of Veterans Affairs or any other federal agency, and any other facility  
 6303 within the State of Georgia approved for such purpose by the department.

6304 ~~(7)~~(12) 'Full and fair hearing' or 'hearing' means a proceeding before a hearing examiner,  
 6305 under Code Section 37-4-42, or before a court, as defined in paragraph (5) of this Code  
 6306 section. The hearing may be held in a regular courtroom or in an informal setting, in the  
 6307 discretion of the hearing examiner or the court, but the hearing shall be recorded  
 6308 electronically or by a qualified court reporter. The client shall be provided with effective  
 6309 assistance of counsel. If the client cannot afford counsel, the court shall appoint counsel  
 6310 for him or her or the hearing examiner shall have the court appoint such counsel. The  
 6311 client shall have the right to confront and cross-examine witnesses and to offer evidence.  
 6312 The client shall have the right to subpoena witnesses and to require testimony before the  
 6313 hearing examiner or in court in person or by deposition from any physician upon whose  
 6314 evaluation the decision of the hearing examiner or the court may rest. The client shall  
 6315 have the right to obtain a continuance for any reasonable time for good cause shown. The  
 6316 hearing examiner and the court shall apply the rules of evidence applicable in civil cases.  
 6317 The burden of proof shall be upon the party seeking treatment of the client. The standard  
 6318 of proof shall be by clear and convincing evidence. At the request of the client, the  
 6319 public may be excluded from the hearing; and the client need not be present if the court  
 6320 consents; in either of these events, the record shall reflect the reason for the hearing  
 6321 examiner's or the court's action.

6322 ~~(8)~~(13) 'Habilitation' means the process by which program personnel help clients acquire  
 6323 and maintain those life skills which will enable them to cope more effectively with the  
 6324 demands of their own persons and of their environment and to raise the level of their  
 6325 physical, mental, social, and vocational abilities.

6326 ~~(9)~~(14) 'Individualized program plan' means a proposed habilitation program written in  
 6327 behavioral terms, developed by the comprehensive evaluation team, and specifically  
 6328 tailored to the needs of an individual client. Each plan shall include:

6329 (A) A statement of the nature of the client's specific problems and specific needs;

6330 (B) A description of intermediate and long-range habilitation goals and a projected  
 6331 timetable for their attainment;

6332 (C) A description of the proposed habilitation program and its relation to habilitation  
 6333 goals;

6334 (D) Identification of the facility and types of professional personnel responsible for  
 6335 execution of the client's habilitation program;

6336 (E) A statement of the least restrictive environment necessary to achieve the purposes  
 6337 of habilitation, based upon the needs of the client;

6338 (F) An explanation of criteria for acceptance or rejection of alternative environments  
 6339 for habilitation; and

6340 (G) Proposed criteria for release of the client into less restrictive habilitation  
 6341 environments upon obtaining specified habilitation goals.

6342 ~~(10)~~(15) 'Least restrictive alternative,' 'least restrictive environment,' or 'least restrictive  
 6343 appropriate habilitation' means that which is the least restrictive available alternative,  
 6344 environment, or appropriate habilitation, as applicable, within the limits of state funds  
 6345 specifically appropriated therefor.

6346 ~~(11)~~ 'Mental retardation' means a state of significantly subaverage general intellectual  
 6347 functioning existing concurrently with deficits in adaptive behavior and originating in the  
 6348 developmental period.

6349 ~~(12)~~ 'Mentally retarded person' means a person having a significantly subaverage general  
 6350 intellectual functioning existing concurrently with deficits in adaptive behavior and  
 6351 originating in the developmental period.

6352 ~~(13)~~ 'Mentally retarded person in need of community services' means a mentally retarded  
 6353 person who, after comprehensive evaluation and a hearing, is found to be in need of  
 6354 community services as defined in Code Section 37-5-3.

6355 ~~(13.1)~~ 'Mentally retarded person requiring temporary and immediate care' means a  
 6356 person who is mentally retarded, and:

6357 ~~(A)~~ Who presents a substantial risk of imminent harm to himself or others;

6358 ~~(B) Who is in need of immediate care, evaluation, stabilization, or treatment for certain~~  
 6359 ~~developmental, medical, or behavioral needs; and~~

6360 ~~(C) For whom there currently exists no available, appropriate community residential~~  
 6361 ~~setting for meeting the needs of the person.~~

6362 ~~(14)~~(16) 'Person in charge of a client's habilitation' means a superintendent or regional  
 6363 state hospital administrator of a facility, a case manager, or any other service provider  
 6364 designated by the department to have overall responsibility for implementation of a  
 6365 client's individualized program plan. The department shall designate such a person for  
 6366 each individual ordered to receive services from the department under this chapter.

6367 ~~(14.1)~~(17) 'Regional state hospital administrator' means the chief administrative officer  
 6368 of a state owned or state operated hospital and the state owned or operated community  
 6369 programs in a region. The regional state hospital administrator, under the supervision of  
 6370 the regional coordinator, has overall management responsibility for the regional state  
 6371 hospital and manages services provided by employees of the regional state hospital and  
 6372 employees of state owned or operated community programs within a mental health,  
 6373 developmental disabilities, and addictive diseases region established in accordance with  
 6374 Code Section 37-2-3.

6375 ~~(15)~~(18) 'Representatives' means the persons appointed as provided in Code Section  
 6376 37-4-107 to receive any notice under this chapter.

6377 ~~(16)~~(19) 'Superintendent' means the chief administrative officer who has overall  
 6378 management responsibility at any facility, other than a regional state hospital or state  
 6379 owned or operated community program, receiving ~~mentally retarded~~ developmentally  
 6380 disabled persons under this chapter or an individual appointed as the designee of such  
 6381 superintendent."

6382 **SECTION 3-10.**

6383 Code Section 37-4-109 of the Official Code of Georgia Annotated, relating to establishment  
 6384 of patients and staff complaint procedure, is amended as follows:

6385 "37-4-109.

6386 The department shall establish procedures whereby complaints of the client or complaints  
 6387 of the staff concerning admission, treatment, or habilitation can be speedily heard. Clients  
 6388 shall receive reasonable notice of such procedures. Final decisions shall be made by the  
 6389 superintendent, the regional state hospital administrator, or an advisory committee,  
 6390 whichever is appropriate, with the right of appeal to the ~~director of the Division of Mental~~  
 6391 ~~Health, Developmental Disabilities, and Addictive Diseases~~ commissioner or his or her  
 6392 designee. The board shall establish rules and regulations for the implementation of such

6393 procedures. However, the client shall not be required to utilize these procedures in lieu of  
6394 other available legal remedies."

6395 **SECTION 3-11.**

6396 Code Section 37-5-3 of the Official Code of Georgia Annotated, relating to definitions  
6397 relative to community services for the mentally retarded, is amended as follows:

6398 "37-5-3.

6399 As used in this chapter, the term:

6400 (1) 'Community services' means all ~~community-based~~ community based services deemed  
6401 reasonably necessary by the department to provide for education, training, rehabilitation,  
6402 and care of ~~mentally retarded~~ developmentally disabled individuals and shall include but  
6403 not be limited to: diagnostic and evaluation services; day-care and training services;  
6404 work-activity services; community residential services such as group family-care homes;  
6405 transportation services incidental to educational, training, and rehabilitation services;  
6406 social services; medical services; and specified home services.

6407 (2) '~~Mentally retarded~~ Developmentally disabled individual' means a person whose  
6408 ability to care for himself or herself is substantially impaired by ~~mental retardation~~ a  
6409 developmental disability or by a neurological dysfunction associated with ~~mental~~  
6410 ~~retardation~~ developmental disability.

6411 (3) '~~Mental retardation~~ Developmental disability' means a state of significantly  
6412 subaverage general intellectual functioning existing concurrently with deficits in adaptive  
6413 behavior and originating in the developmental period."

6414 **SECTION 3-12.**

6415 Code Section 37-6-1 of the Official Code of Georgia Annotated, relating to definitions  
6416 relative to day-care centers for the mentally retarded, is amended as follows:

6417 "37-6-1.

6418 As used in this chapter, the term:

6419 (1) 'Day-care center' means any facility that is operated and maintained for and is  
6420 qualified to furnish care and training to ~~mentally retarded~~ developmentally disabled  
6421 individuals on less than a 24 hour basis.

6422 (2) '~~Mentally retarded~~ Developmentally disabled individual' means any individual who  
6423 is suffering from ~~mental retardation~~ a developmental disability.

6424 (3) '~~Mental retardation~~' means ~~a state of subaverage general intellectual functioning~~  
6425 ~~which originates during the developmental period and is associated with impairment in~~  
6426 ~~adaptive behavior.~~

6427 (3) 'Developmental disability' means a severe, chronic disability of an individual that:

- 6428 (A) Is attributable to a mental, cognitive, or physical impairment, or any combination  
 6429 of mental, cognitive, and physical impairments;  
 6430 (B) Is manifested before the individual attains age 22 except in cases of traumatic brain  
 6431 injury when age is not a variable;  
 6432 (C) Is likely to continue indefinitely;  
 6433 (D) Results in substantial functional limitations in three or more of the following areas  
 6434 of major life activities:  
 6435 (i) Self-care;  
 6436 (ii) Receptive and expressive language;  
 6437 (ii) Learning;  
 6438 (iv) Mobility;  
 6439 (v) Self-direction;  
 6440 (vi) Capacity for independent living; and  
 6441 (vii) Economic self-sufficiency; and  
 6442 (E) Reflects the person's need for a combination and sequence of special,  
 6443 interdisciplinary, or generic services, individualized supports, or other forms of  
 6444 assistance which are of lifelong or extended duration and are individually planned and  
 6445 coordinated.  
 6446 When applied to infants and young children, the term means individuals from birth to age  
 6447 nine years, inclusive, who have substantial developmental delay or specific congenital  
 6448 or acquired conditions with a high probability of resulting in developmental disabilities  
 6449 if services or supports are not provided."

6450 **SECTION 3-13.**

6451 Code Section 37-9-2 of the Official Code of Georgia Annotated, relating to definitions  
 6452 relative to payment of expenses for support, treatment, and care of patients in institutions  
 6453 generally, is amended by revising paragraph (6) as follows:

6454 "(6) 'State hospital' means any state hospital which now or hereafter comes under the  
 6455 control of ~~the Division of Mental Health, Developmental Disabilities, and Addictive~~  
 6456 ~~Diseases~~ of the department and any facility operated in conjunction therewith."

6457 **SECTION 3-14.**

6458 Code Section 37-10-2 of the Official Code of Georgia Annotated, relating to the Interstate  
 6459 Compact on Mental Health, is amended by revising Article XV as follows:

## "ARTICLE XV.

6460

6461 (a) Pursuant to said compact, the Commissioner of ~~Human Resources~~ Behavioral Health,  
6462 or his delegate, is hereby designated to be the compact administrator. The compact  
6463 administrator, acting jointly with like officers of other party States, shall have power to  
6464 promulgate rules and regulations to carry out more effectively the terms of the compact.  
6465 The compact administrator is hereby authorized, empowered and directed to cooperate with  
6466 all departments, agencies and officers of and in the government of this State and its  
6467 subdivisions in facilitating the proper administration of the compact or any supplementary  
6468 agreement or agreements entered into by this State thereunder.

6469 (b) The compact administrator is hereby authorized and empowered to enter into  
6470 supplementary agreements with appropriate officials of other States pursuant to Articles  
6471 VII and XI of the compact. In the event that such supplementary agreements shall require  
6472 or contemplate the use of any institution or facility of this State or require or contemplate  
6473 the provision of any service of this State, no such agreement shall have force or effect until  
6474 approved by the head of the department or agency under whose jurisdiction said institution  
6475 or facility is operated or whose department or agency will be charged with the rendering  
6476 of such service.

6477 (c) The compact administrator, using funds appropriated to the Department of ~~Human~~  
6478 Resources Behavioral Health and the Department of Health, may make or arrange for any  
6479 payments necessary to discharge any financial obligations imposed upon this State by the  
6480 compact or by any supplementary agreement entered into thereunder.

6481 (d) Duly authenticated copies of this Act shall be transmitted by the Secretary of State of  
6482 the State of Georgia to the Governor of each State, to the Attorney General and the  
6483 Administrator of General Services of the United States, and to the Council of State  
6484 Governments, and to the Veterans' Administration.

6485 (e) The compact administrator is hereby directed to consult with the immediate family of  
6486 any proposed transferee and, in the case of a proposed transfer from an institution in this  
6487 State to an institution in another party State, to take no final action without notice to the  
6488 admitting court or in case of admission other than by a court, then notice to the admitting  
6489 medical facility is required.

6490 (f) In the administration of this compact, the compact administrator shall in no way  
6491 abridge the rights or privileges of any patient to appeal to the courts for a hearing as  
6492 provided under the laws of Georgia."



**SECTION 3-15.**

6493

6494 Code Section 40-16-5 of the Official Code of Georgia Annotated, relating to authority of the  
6495 commissioner of driver services, is amended by revising paragraph (5) of subsection (d) as  
6496 follows:

6497 "(5) All rules and regulations previously adopted which relate to functions transferred  
6498 under this chapter from the Department of Human Resources (now known as the  
6499 Department of Behavioral Health for these purposes) to the Department of Driver  
6500 Services."

**SECTION 3-16.**

6501

6502 Code Section 42-5-52 of the Official Code of Georgia Annotated, relating to classification  
6503 and separation of inmates generally, is amended by revising subsections (d), (e), and (f) as  
6504 follows:

6505 "(d) The department is authorized to transfer a mentally diseased inmate from a state or  
6506 county correctional institution or other facility operating under its authority to a criminal  
6507 ward or facility of the Department of ~~Human Resources~~ Behavioral Health. The inmate  
6508 shall remain in the custody of the Department of ~~Human Resources~~ Behavioral Health until  
6509 proper officials of the facility at which ~~he~~ the inmate is detained declare that his or her  
6510 sanity has been restored, at which time the inmate shall be returned to the custody of the  
6511 department. At any time after completion of his or her sentence, an inmate detained by the  
6512 Department of ~~Human Resources~~ Behavioral Health on the grounds that he or she is  
6513 mentally diseased may petition for release in accordance with the procedure provided in  
6514 Chapter 3 of Title 37. Prior to completion of his or her sentence, this procedure shall not  
6515 be available to ~~him~~ the inmate.

6516 (e) Upon being presented with a proper certification from the county physician of a county  
6517 where a person has been sentenced to confinement that the person sentenced is addicted to  
6518 drugs or alcohol to the extent that ~~his~~ the person's health will be impaired or ~~his~~ life  
6519 endangered if immediate treatment is not rendered, the department shall transfer the inmate  
6520 to the custody of the Department of ~~Human Resources~~ Behavioral Health. The inmate shall  
6521 remain in such custody until officials of the Department of ~~Human Resources~~ Behavioral  
6522 Health determine ~~he~~ the inmate is able to serve his or her sentence elsewhere.

6523 (f) The department may transfer any inmate afflicted with active tuberculosis from any  
6524 state or county correctional institution, or any other facility operating under the authority  
6525 of the department, to a tubercular ward or facility specially provided and maintained for  
6526 criminals by the department at a tuberculosis facility or facilities operating under the  
6527 Department of ~~Human Resources~~ Health."

**SECTION 3-17.**

6528

6529 Code Section 42-5-52.1 of the Official Code of Georgia Annotated, relating to submission  
6530 to HIV test of inmates, is amended by revising subsection (c) as follows:

6531 "(c) No later than December 31, 1991, the department shall require to submit to an HIV  
6532 test each person who has been committed to the custody of the commissioner to serve time  
6533 in a penal institution of this state and who remains in such custody, or who would be in  
6534 such custody but for having been transferred to the custody of the Department of Human  
6535 Resources (now known as the Department of Behavioral Health) under Code Section  
6536 42-5-52, if that person has not submitted to an HIV test following that person's most recent  
6537 commitment to the custody of the commissioner and unless that person is in such custody  
6538 because of having committed an AIDS transmitting crime and has already submitted to an  
6539 HIV test pursuant to Code Section 17-10-15."

**SECTION 3-18.**

6540

6541 Code Section 49-5-220 of the Official Code of Georgia Annotated, relating to legislative  
6542 findings and intent with respect to children and adolescents with severe emotional problems,  
6543 is amended as follows:

6544 "49-5-220.

6545 (a) The General Assembly declares its intention and desire to:

- 6546 (1) Ensure a comprehensive mental health program consisting of early identification,  
6547 prevention, and early intervention for every child in Georgia;
- 6548 (2) Preserve the sanctity of the family unit;
- 6549 (3) Prevent the unnecessary removal of children and adolescents with a severe emotional  
6550 disturbance from their homes;
- 6551 (4) Prevent the unnecessary placement of these children out of state;
- 6552 (5) Bring those children home who through use of public funds are inappropriately  
6553 placed out of state; and
- 6554 (6) Develop a coordinated system of care so that children and adolescents with a severe  
6555 emotional disturbance and their families will receive appropriate educational,  
6556 nonresidential and residential mental health services, and support services, as prescribed  
6557 in an individualized plan.

6558 (b) In recognition of the fact that services to these children are provided by several  
6559 different agencies, each having a different philosophy, a different mandate, and a different  
6560 source of funding, the General Assembly intends that the ~~Division of Mental Health,~~  
6561 ~~Developmental Disabilities, and Addictive Diseases of the Department of Human~~  
6562 ~~Resources~~ Department of Behavioral Health shall have the primary responsibility for  
6563 planning, developing, and implementing the coordinated system of care for severely

6564 emotionally disturbed children. Further, it recognizes that to enable severely emotionally  
 6565 disturbed children to develop appropriate behaviors and demonstrate academic and  
 6566 vocational skills, it is necessary that the Department of Education provide appropriate  
 6567 education in accordance with P.L. 94-142 and that the ~~Division of Mental Health,~~  
 6568 ~~Developmental Disabilities, and Addictive Diseases of the Department of Human~~  
 6569 ~~Resources~~ Department of Behavioral Health provide mental health treatment.

6570 (c) Further, in recognition that only a portion of the children needing services are receiving  
 6571 them and in recognition that not all the services that comprise a coordinated system of care  
 6572 are currently in existence or do not exist in adequate numbers, the General Assembly  
 6573 intends that the ~~Department of Human Resources~~ Department of Behavioral Health and the  
 6574 Department of Education jointly develop and implement a State Plan for the Coordinated  
 6575 System of Care for severely or emotionally disturbed children or adolescents as defined in  
 6576 paragraph (10) of Code Section 49-5-221.

6577 (d) The commissioner of the ~~Department of Human Resources~~ behavioral health and the  
 6578 State School Superintendent shall be responsible for the development and implementation  
 6579 of the state plan.

6580 (e) The commissioner of the ~~Department of Human Resources~~ behavioral health shall be  
 6581 responsible for preparing this jointly developed state plan for publication and  
 6582 dissemination. The commissioner of the ~~Department of Human Resources~~ behavioral  
 6583 health shall also be responsible for preparing for publication and dissemination the annual  
 6584 report.

6585 (f) The receipt of services under this article is not intended to be conditioned upon  
 6586 placement of a child in the legal custody, protective supervision, or protection of the  
 6587 ~~Department of Human Resources~~ Department of Human Services."

### 6588 **SECTION 3-19.**

6589 Code Section 49-5-225 of the Official Code of Georgia Annotated, relating to local  
 6590 interagency committees with respect to children and adolescents with severe emotional  
 6591 problems, is amended by revising subsection (a) as follows:

6592 "(a) At least one local interagency committee shall be established for each region of the  
 6593 ~~Division of Mental Health, Developmental Disabilities, and Addictive Diseases of the~~  
 6594 ~~Department of Human Resources~~ Department of Behavioral Health whose permanent  
 6595 membership shall include a local representative from each of the following:

- 6596 (1) The community mental health agency responsible for coordinating children's  
 6597 services;
- 6598 (2) The Division of Family and Children Services of the Department of Human  
 6599 ~~Resources~~ Services;

- 6600 (3) The Department of Juvenile Justice;
- 6601 (4) The Division of Public Health of the Department of ~~Human Resources~~ Health;
- 6602 (5) A member of the special education staff of the local education agency;
- 6603 (6) The Division of Rehabilitation Services of the Department of Labor."

6604 **PART IV**

6605 **Effective Date and Repealer.**

6606 **SECTION 4-1.**

6607 This Act shall be effective on July 1, 2009.

6608 **SECTION 4-2.**

6609 All laws and parts of laws in conflict with this Act are repealed.