

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)~~ 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."

2021 **SECTION 1-33.**

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

2753
2754

2755 49-2-1.

2756 (a) There is created a Department of Human Resources Services. The powers, functions,
 2757 and duties of the Department of Human Resources as they existed on June 30, 2009, except
 2758 for those relating to the Division of Mental Health, Developmental Disabilities, and
 2759 Addictive Diseases, the Division of Public Health, and the Office of Regulatory Services,
 2760 unless specifically transferred or reassigned to the Department of Health or the Department
 2761 of Behavioral Health, are transferred to the Department of Human Services effective July
 2762 1, 2009, and the Department of Human Resources shall be reconstituted as the Department
 2763 of Human Services effective July 1, 2009.

2764 (b) There is also created the position of commissioner of human resources services. The
 2765 commissioner shall be the chief administrative officer of the department and be both
 2766 appointed and removed by the board, subject to the approval of the Governor. Subject to
 2767 the general policy established by the board, the commissioner shall supervise, direct,
 2768 account for, organize, plan, administer, and execute the functions vested in the department.

2769 49-2-2.

2770 (a) There is created a Board of Human Resources Services, as of July 1, 2009, which shall
 2771 establish the general policy to be followed by the Department of Human Resources
 2772 Services created by Code Section 49-2-1. The powers, functions, and duties of the Board
 2773 of Human Resources as they existed on June 30, 2009, except for those relating to the
 2774 Division of Mental Health, Developmental Disabilities, and Addictive Diseases, the
 2775 Division of Public Health, and the Office of Regulatory Services, unless specifically
 2776 transferred or reassigned to the Department of Health or the Department of Behavioral
 2777 Health, are transferred to the Board of Human Services effective July 1, 2009, and the
 2778 Board of Human Resources as it existed on June 30, 2009, shall be abolished effective July
 2779 1, 2009. The board shall consist of ~~one member from each congressional district in the~~
 2780 state and four at-large nine members appointed by the Governor and confirmed by the
 2781 Senate. For this purpose, the congressional districts used shall be those specified in Code
 2782 Section ~~21-1-2~~, as amended by Act No. 2EX11 of the second extraordinary 2001 session
 2783 of the General Assembly and as thereafter amended by law. ~~Seven members of the board~~
 2784 shall be engaged professionally in rendering health services, and at least five of these seven
 2785 members shall be licensed to practice medicine pursuant to Chapter 34 of Title 43. In
 2786 appointing members to the board, the Governor shall take into account to the extent
 2787 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.

4089
 4090
 4091
 4092
 4093
 4094
 4095
 4096
 4097
 4098
 4099
 4100
 4101
 4102
 4103
 4104
 4105
 4106
 4107
 4108
 4109
 4110
 4111
 4112
 4113
 4114
 4115
 4116
 4117
 4118
 4119
 4120
 4121
 4122
 4123

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.