

The Senate Government Oversight Committee offers the following substitute to HB 228:

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:

PART I

Department of Health.

SECTION 1-1.

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

"CHAPTER 2

18 ~~31-5A-1.~~ 31-2-1.

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

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 and to administer its
32 operations in a manner so as to receive the maximum amount of federal financial
33 participation available in expenditures of the department inasmuch as the state now has
34 none of its health care purchasing coordinated;

35 (3) ~~To minimize~~ Minimize duplication and maximize administrative efficiency in the
36 state's health care systems by removing overlapping functions and streamlining
37 uncoordinated programs;

38 (4) ~~To allow~~ Allow the state to develop a better health care infrastructure that is more
39 responsive to the consumers it serves while improving access to and coverage for health
40 care; ~~and~~

41 (5) ~~To focus~~ Focus more attention and departmental procedures on the issue of wellness,
42 including diet, exercise, and personal responsibility;

43 (6) Provide epidemiological investigations and laboratory facilities and services in the
44 detection and control of disease, disorders, and disabilities and to provide research,
45 conduct investigations, and disseminate information concerning reduction in the
46 incidence and proper control of disease, disorders, and disabilities;

47 (7) Forestall and correct physical, chemical, and biological conditions that, if left to run
48 their course, could be injurious to health;

49 (8) Regulate and require the use of sanitary facilities at construction sites and places of
50 public assembly and to regulate persons, firms, and corporations engaged in the rental
51 and service of portable chemical toilets;

52 (9) Isolate and treat persons afflicted with a communicable disease who are either unable
53 or unwilling to observe the department's rules and regulations for the suppression of such
54 disease and to establish, to that end, complete or modified quarantine, surveillance, or
55 isolation of persons and animals exposed to a disease communicable to man;

56 (10) Procure and distribute drugs and biologicals and purchase services from clinics,
57 laboratories, hospitals, and other health facilities and, when authorized by law, to acquire
58 and operate such facilities;

59 (11) Cooperate with agencies and departments of the federal government and of the state
 60 by supplying consultant services in medical and hospital programs and in the health
 61 aspects of civil defense, emergency preparedness, and emergency response;

62 (12) Prevent, detect, and relieve physical defects and deformities;

63 (13) Promote the prevention, early detection, and control of problems affecting the dental
 64 and oral health of the citizens of Georgia;

65 (14) Contract with county boards of health to assist in the performance of services
 66 incumbent upon them under Chapter 3 of this title and, in the event of grave emergencies
 67 of more than local peril, to employ whatever means may be at its disposal to overcome
 68 such emergencies;

69 (15) Contract and execute releases for assistance in the performance of its functions and
 70 the exercise of its powers and to supply services which are within its purview to perform;

71 (16) Enter into or upon public or private property at reasonable times for the purpose of
 72 inspecting same to determine the presence of disease and conditions deleterious to health
 73 or to determine compliance with health laws and rules, regulations, and standards
 74 thereunder;

75 (17) Promulgate and enforce rules and regulations for the licensing of medical facilities
 76 wherein abortion procedures under subsections (b) and (c) of Code Section 16-12-141 are
 77 to be performed; and, further, to disseminate and distribute educational information and
 78 medical supplies and treatment in order to prevent unwanted pregnancy; and

79 (18) Establish, by rule adopted pursuant to Chapter 13 of Title 50, the 'Georgia
 80 Administrative Procedure Act,' a schedule of fees for laboratory services provided,
 81 schedules to be determined in a manner so as to help defray the costs incurred by the
 82 department, but in no event to exceed such costs, both direct and indirect, in providing
 83 such laboratory services, provided no person shall be denied services on the basis of his
 84 or her inability to pay. All fees paid thereunder shall be paid into the general funds of the
 85 State of Georgia. The individual who requests the services authorized in this paragraph,
 86 or the individual for whom the laboratory services authorized in this paragraph are
 87 performed, shall be responsible for payment of the service fees. As used in this
 88 paragraph, the term 'individual' means a natural person or his or her responsible health
 89 benefit policy or Title XVIII, XIX, or XXI of the federal Social Security Act of 1935.

90 ~~31-5A-2.~~ 31-2-2.

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

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

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

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

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

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

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

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

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

114 (9)(5) 'State health benefit plan' means the health insurance plan authorized under Article
115 1 of Chapter 18 of Title 45 and Part 6 of Article 17 of Chapter 2 of Title 20.

116 (10)(6) 'State Personnel Board' means the board established under Article IV, Section III
117 of the Constitution.

118 ~~31-5A-3.~~ 31-2-3.

119 (a) There is created the State Board of Community Health, as of July 1, 2009, which shall
120 establish the general policy to be followed by the Department of ~~Community~~ Health. The
121 powers, functions, and duties of the Board of ~~Medical Assistance~~ Community Health as
122 they existed on June 30, ~~1999~~ 2009, with regard to the ~~Department of Medical Assistance,~~
123 ~~and the powers, functions, and duties of the State Personnel Board as they existed on June~~
124 ~~30, 1999, with regard to the state health benefit plan,~~ are transferred to the State Board of
125 Community Health effective July 1, 1999 2009, and the Board of Community Health as it
126 existed on June 30, 2009 shall be reconstituted as the Board of Health effective July 1,
127 2009. The board shall consist of nine members appointed by the Governor and confirmed
128 by the Senate.

129 (b) ~~The Governor shall designate the initial terms of the members of the board as follows:~~
130 ~~three members shall be appointed for one year; three members shall be appointed for two~~

131 ~~years; and three members shall be appointed for three years.~~ Board members in office on
 132 June 30, 2009, shall serve out the remainder of their respective terms and successors to
 133 these board seats shall be appointed in accordance with this Code section. Thereafter, all
 134 succeeding appointments shall be for three-year terms from the expiration of the previous
 135 term.

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

141 (d) Members of the board may be removed from office under the same conditions for
 142 removal from office of members of professional licensing boards provided in Code Section
 143 43-1-17.

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

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

149 ~~31-5A-4.~~ 31-2-4.

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

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

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

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

170 ~~(3) The Health Benefit Services Division of the State Merit System of Personnel~~
 171 ~~Administration, as it existed on June 30, 1999, is continued in existence on and after July~~
 172 ~~1, 1999, but shall thereafter be the Division of Public Employee Health Benefits within~~
 173 ~~the department; and~~

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

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

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

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

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

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

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

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

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

202 ~~(3) The Office of Women's Health shall have a full-time executive director appointed by~~
 203 ~~the commissioner and shall be provided with staff personnel, office and meeting facilities;~~

204 ~~and other necessary items by the department.~~ The council shall meet upon the call of its
 205 chairperson, the board, or the commissioner.

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

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

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

216 (2) Is authorized to plan and coordinate medical education and physician workforce
 217 issues;

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

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

236 ~~(5) Shall study and recommend any additional functions needed to carry out the purposes~~
 237 ~~of the department, including the creation of a consumer medical advocate. Such~~
 238 ~~recommendations shall be made to the Governor and General Assembly by December 31,~~
 239 ~~1999;~~

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

267 ~~31-5A-5. 31-2-5.~~

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

272 ~~(b) All persons employed in a predecessor agency or unit on June 30, 1999 2009, shall, on~~
 273 ~~July 1, 1999 2009, become employees of the department within the division which such~~
 274 ~~predecessor agency has become. Such employees shall be subject to the employment~~
 275 ~~practices and policies of the department on and after July 1, 1999 2009, but the~~

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

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

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

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

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

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

313 only ~~the Division of Health Planning~~ rules promulgated pursuant to Chapter 6 of this title
 314 shall be subject to the provisions of Code Section 31-6-21.1.

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

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

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

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

335 ~~31-5A-6.~~ 31-2-6.

336 (a) There is created the position of commissioner of ~~community~~ health. The commissioner
 337 shall be the chief administrative officer of the department and shall be subject to
 338 appointment and removal by the Governor. Subject to the general policy established by
 339 the board, the commissioner shall supervise, direct, account for, organize, plan, administer,
 340 and execute the functions vested in the department.

341 (b) There shall be created in the department such divisions as may be found necessary for
 342 its effective operation. The commissioner shall have the power to allocate and reallocate
 343 functions among the divisions within the department.

344 ~~31-2-1.~~

345 ~~The Department of Human Resources is created and established to safeguard and promote~~
 346 ~~the health of the people of this state and is empowered to employ all legal means~~

347 appropriate to that end. Illustrating, without limiting, the foregoing grant of authority, the
348 department is empowered to:

349 (1) Provide epidemiological investigations and laboratory facilities and services in the
350 detection and control of disease, disorders, and disabilities and to provide research,
351 conduct investigations, and disseminate information concerning reduction in the
352 incidence and proper control of disease, disorders, and disabilities;

353 (2) Forestall and correct physical, chemical, and biological conditions that, if left to run
354 their course, could be injurious to health;

355 (3) Regulate and require the use of sanitary facilities at construction sites and places of
356 public assembly and to regulate persons, firms, and corporations engaged in the rental
357 and service of portable chemical toilets;

358 (4) Isolate and treat persons afflicted with a communicable disease who are either unable
359 or unwilling to observe the department's rules and regulations for the suppression of such
360 disease and to establish, to that end, complete or modified quarantine, surveillance, or
361 isolation of persons and animals exposed to a disease communicable to man;

362 (5) Manufacture drugs and biologicals which are not readily available on the market and
363 not manufactured for commercial purposes, when expressly authorized and shown on the
364 minutes of the department; to procure and distribute drugs and biologicals and purchase
365 services from clinics, laboratories, hospitals, and other health facilities and, when
366 authorized by law, to acquire and operate such facilities;

367 (6) Cooperate with agencies and departments of the federal government and of the state
368 by supplying consultant services in medical and hospital programs and in the health
369 aspects of civil defense;

370 (7) Detect and relieve physical defects and deformities and provide treatment for mental
371 and emotional disorders and infirmities;

372 (8) Promote the prevention, early detection, and control of problems affecting the dental
373 health of the citizens of Georgia;

374 (9) Contract with county boards of health to assist in the performance of services
375 incumbent upon them under Chapter 3 of this title and, in the event of grave emergencies
376 of more than local peril, to employ whatever means may be at its disposal to overcome
377 such emergencies;

378 (10) Contract and execute releases for assistance in the performance of its functions and
379 the exercise of its powers and to supply services which are within its purview to perform;

380 (11) Enter into or upon public or private property at reasonable times for the purpose of
381 inspecting same to determine the presence of disease and conditions deleterious to health
382 or to determine compliance with health laws and rules, regulations, and standards
383 thereunder;

384 ~~(12) Promulgate and enforce rules and regulations for the licensing of medical facilities~~
 385 ~~wherein abortion procedures under subsections (b) and (c) of Code Section 16-12-141 are~~
 386 ~~to be performed, and, further, to disseminate and distribute educational information and~~
 387 ~~medical supplies and treatment in order to prevent unwanted pregnancy; and~~
 388 ~~(13) Establish, by rule adopted pursuant to Chapter 13 of Title 50, the 'Georgia~~
 389 ~~Administrative Procedure Act,' a schedule of fees for laboratory services provided;~~
 390 ~~schedules to be determined in a manner so as to help defray the costs incurred by the~~
 391 ~~department, but in no event to exceed such costs, both direct and indirect, in providing~~
 392 ~~such laboratory services, provided no person shall be denied services on the basis of his~~
 393 ~~inability to pay. All fees paid thereunder shall be paid into the general funds of the State~~
 394 ~~of Georgia. The individual who requests services authorized in this Code section shall~~
 395 ~~pay the fee. As used in this Code section, the term 'individual' means a natural person.~~

396 ~~31-2-2. 31-2-7.~~

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

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

420 (C) Relating to the ~~mental~~ and physical health of the people of this state which are
 421 appropriate to the purpose of the department; and

422 (8) Develop the health aspects of ~~civil defense~~ emergency preparedness and emergency
 423 response.

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

430 ~~31-2-3.~~ 31-2-8.

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

433 ~~31-2-4.~~ 31-2-9.

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

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

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

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

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

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

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

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

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

474 ~~31-2-5.~~ 31-2-10.

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

479 ~~31-2-6.~~ 31-2-11.

480 (a) This Code section shall be applicable to any agency, center, facility, institution,
 481 ~~community living arrangement~~, drug abuse treatment and education program, or entity
 482 subject to regulation by the department under Chapters 7, 13, 22, 23, and 44 of this title;
 483 Chapter 5 of Title 26; ~~paragraph (16) of subsection (b) and subsection (c) of Code Section~~
 484 ~~37-1-20~~; and ~~Chapter 5 and~~ Article 7 of Chapter 6 of Title 49. For purposes of this Code
 485 section, the term 'license' shall be used to refer to any license, permit, registration, or
 486 commission issued by the department pursuant to the provisions of the law cited in this
 487 subsection.

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

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

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

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

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

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

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

506 (2) Administer a public reprimand;

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

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

515 (5) Revoke any license;

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

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

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

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

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

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

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

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

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

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

559 (f) With regard to any contested case instituted by the department pursuant to this Code
560 section or other provisions of law which may now or hereafter authorize remedial or
561 disciplinary grounds and action, the department may, in its discretion, dispose of the action

562 so instituted by settlement. In such cases, all parties, successors, and assigns to any
563 settlement agreement shall be bound by the terms specified therein, and violation thereof
564 by any applicant or licensee shall constitute grounds for any action enumerated in
565 subsection (c) of this Code section.

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

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

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

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

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

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

596 (m) The provisions of this Code section shall be supplemental to and shall not operate to
597 prohibit the department from acting pursuant to those provisions of law which may now
598 or hereafter authorize remedial or disciplinary grounds and action for the department. In

599 cases where those other provisions of law so authorize other disciplinary grounds and
600 actions, but this Code section limits such grounds or actions, those other provisions shall
601 apply.

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

604 ~~31-2-7.~~ 31-2-12.

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

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

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

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

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

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

628 (b) The ~~Department of Human Resources~~ department shall have the authority as it deems
629 necessary and proper to adopt state-wide regulations for on-site; sewage management
630 systems, including but not limited to experimental and alternative systems. The department
631 is authorized to require that any such on-site sewage management system be examined and
632 approved prior to allowing the use of such system in the state; provided, however, that any
633 prior approved system shall continue to be approved for installation in every county of the
634 state pursuant to the manufacturer's recommendations, including sizing of no less than 50

635 percent of trench length of a conventional system designed for equal flows in similar soil
636 conditions. Upon written request of one-half or more of the health districts in the state, the
637 department is authorized to require the reexamination of any such system or component
638 thereof, provided that documentation is submitted indicating unsatisfactory service of such
639 system or component thereof. Before any such examination or reexamination, the
640 department may require the person, persons, or organization manufacturing or marketing
641 the system to reimburse the department or its agent for the reasonable expenses of such
642 examination.

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

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

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

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

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

678 ~~31-2-8: 31-2-13.~~

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

688 ~~31-2-9:~~

689 ~~(a) The General Assembly makes the following findings:~~

690 ~~(1) Every year in Georgia, approximately 850 people die from suicide;~~

691 ~~(2) More Georgians die from suicide than from homicide;~~

692 ~~(3) More teenagers and young adults die from suicide than from cancer, heart disease,
693 AIDS, birth defects, stroke, pneumonia, influenza, and chronic lung disease combined;~~

694 ~~(4) Many who attempt suicide do not seek professional help after the attempt;~~

695 ~~(5) In Georgia, three out of four suicide deaths involve a firearm;~~

696 ~~(6) Factors such as aging, drug and alcohol abuse, unemployment, mental illness,
697 isolation, and bullying in school contribute to causes of suicide; and~~

698 ~~(7) Education is necessary to inform the public about the causes of suicide and the early
699 intervention programs that are available.~~

700 ~~(b) There is created the Suicide Prevention Program to be managed by the injury
701 prevention section of the Division of Public Health of the Department of Human
702 Resources.~~

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

704 ~~(1) Establish a link between state agencies and offices, including but not limited to the
705 department's Division of Aging Services, Division of Family and Children Services, and~~

706 ~~Division of Mental Health, Developmental Disabilities, and Addictive Diseases, local~~

- 707 ~~government agencies, health care providers, hospitals, nursing homes, and jails to collect~~
 708 ~~data on suicide deaths and attempted suicides;~~
 709 ~~(2) Work with public officials to improve firearm safety;~~
 710 ~~(3) Improve education for nurses, judges, physician assistants, social workers,~~
 711 ~~psychologists, and other counselors with regard to suicide education and prevention and~~
 712 ~~expand educational resources for professionals working with those persons most at risk~~
 713 ~~of suicide;~~
 714 ~~(4) Provide training and minimal screening tools for clergy, teachers and other~~
 715 ~~educational staff, and correctional workers on how to identify and respond to persons at~~
 716 ~~risk of suicide;~~
 717 ~~(5) Provide educational programs for family members of persons at an elevated risk of~~
 718 ~~suicide;~~
 719 ~~(6) Develop standardized protocols to be used by the Department of Human Resources~~
 720 ~~in reviewing suicide death scene investigations;~~
 721 ~~(7) Work to increase the number of follow-back studies of suicides;~~
 722 ~~(8) Work to increase the number of hospitals that code for external cause of injuries;~~
 723 ~~(9) Implement a state-wide reporting system for reporting suicides;~~
 724 ~~(10) Support pilot projects to link and analyze information on self-destructive behavior~~
 725 ~~from various, distinct data systems; and~~
 726 ~~(11) Perform such other tasks as deemed appropriate to further suicide education and~~
 727 ~~prevention in Georgia.~~
 728 ~~(d) The Suicide Prevention Program shall be provided staff to consist of a full-time~~
 729 ~~coordinator, half-time data analyst/epidemiologist, and administrative support, all subject~~
 730 ~~to available funding.~~

731 31-2-14.

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

- 733 (1) 'Conviction' means a finding or verdict of guilty or a plea of guilty regardless of
 734 whether an appeal of the conviction has been sought.
 735 (2) 'Crime' means commission of the following offenses:
 736 (A) A violation of Code Section 16-5-1, relating to murder and felony murder;
 737 (B) A violation of Code Section 16-5-21, relating to aggravated assault;
 738 (C) A violation of Code Section 16-5-24, relating to aggravated battery;
 739 (D) A violation of Code Section 16-5-70, relating to cruelty to children;
 740 (E) A violation of Code Section 16-5-100, relating to cruelty to a person 65 years of
 741 age or older;
 742 (F) A violation of Code Section 16-6-1, relating to rape;

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

- 780 (A) Purports to or exercises authority of the owner in a facility;
 781 (B) Applies to operate or operates a facility;
 782 (C) Maintains an office on the premises of a facility;
 783 (D) Resides at a facility;
 784 (E) Has direct access to persons receiving care at a facility;
 785 (F) Provides direct personal supervision of facility personnel by being immediately
 786 available to provide assistance and direction during the time such facility services are
 787 being provided; or
 788 (G) Enters into a contract to acquire ownership of a facility.
- 789 (9) 'Records check application' means fingerprints in such form and of such quality as
 790 prescribed by the Georgia Crime Information Center and under standards adopted by the
 791 Federal Bureau of Investigation and a records search fee to be established by the
 792 department by rule and regulation, payable in such form as the department may direct to
 793 cover the cost of obtaining criminal background information pursuant to this Code
 794 section.
- 795 (b) An owner with a criminal record shall not operate or hold a license to operate a facility,
 796 and the department shall revoke the license of any owner operating a facility or refuse to
 797 issue a license to any owner operating a facility if it determines that such owner has a
 798 criminal record; provided, however, that an owner who holds a license to operate a facility
 799 on or before June 30, 2007, shall not have his or her license revoked prior to a hearing
 800 being held before a hearing officer pursuant to Chapter 13 of Title 50, the 'Georgia
 801 Administrative Procedure Act.'
- 802 (c)(1) Prior to approving any license for a new facility and periodically as established by
 803 the department by rule and regulation, the department shall require an owner to submit
 804 a records check application. The department shall establish a uniform method of
 805 obtaining an owner's records check application.
- 806 (2)(A) Unless the department contracts pursuant to subparagraph (B) of this paragraph,
 807 the department shall transmit to the GCIC the fingerprints and records search fee from
 808 each fingerprint records check application in accordance with Code Section 35-3-35.
 809 Upon receipt thereof, the GCIC shall promptly transmit the fingerprints to the Federal
 810 Bureau of Investigation for a search of bureau records and an appropriate report and
 811 shall promptly conduct a search of its records and records to which it has access.
 812 Within ten days after receiving fingerprints acceptable to the GCIC and the fee, the
 813 GCIC shall notify the department in writing of any criminal record or if there is no such
 814 finding. After a search of Federal Bureau of Investigation records and fingerprints and
 815 upon receipt of the bureau's report, the department shall make a determination about an

816 owner's criminal record and shall notify the owner in writing as to the department's
817 determination as to whether the owner has or does not have a criminal record.

818 (B) The department may either perform criminal background checks under agreement
819 with the GCIC or contract with the GCIC and appropriate law enforcement agencies
820 which have access to GCIC and Federal Bureau of Investigation information to have
821 those agencies perform for the department criminal background checks for owners. The
822 department or the appropriate law enforcement agencies may charge reasonable fees
823 for performing criminal background checks.

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

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

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

848 (d) All information received from the Federal Bureau of Investigation or the GCIC shall
849 be for the exclusive purpose of approving or denying the granting of a license to a new
850 facility or the revision of a license of an existing facility when a new owner is proposed and
851 shall not be released or otherwise disclosed to any other person or agency. All such
852 information collected by the department shall be maintained by the department pursuant

853 to laws regarding and the rules or regulations of the Federal Bureau of Investigation and
 854 the GCIC, as is applicable. Penalties for the unauthorized release or disclosure of any such
 855 information shall be as prescribed pursuant to laws regarding and rules or regulations of
 856 the Federal Bureau of Investigation and the GCIC, as is applicable.

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

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

861 ~~31-5A-7:~~ 31-2-15.

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

870 ~~31-5A-8:~~ 31-2-16.

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

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

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

877 (3) 'Georgia biotechnology, biopharmaceutical, or pharmaceutical company' means a
 878 biotechnology, biopharmaceutical, or pharmaceutical company, or a corporate division
 879 of such a company:

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

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

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

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

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

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

889 (5) 'Research and development' means experimental or laboratory activity for the
890 ultimate purpose of developing new products, improving existing products, developing
891 new uses for existing products, or developing or improving methods for producing
892 products.

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

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

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

913 **SECTION 1-2.**

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

916 "31-1-1.

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

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

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

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

921 **SECTION 1-3.**

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

923 "31-1-10.

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

927 (b) The State Health Officer shall perform such health emergency preparedness and
 928 response duties as assigned by the Governor."

929 **SECTION 1-4.**

930 The following Code sections of the Official Code of Georgia Annotated are amended by
 931 replacing "Department of Community Health" wherever it occurs with "Department of
 932 Health":

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

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

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

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

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

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

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

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

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

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

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

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

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

- 957 (14) Code Section 31-6-47, relating to exemptions from certificate of need requirements;
958 (15) Code Section 31-7-1, relating to definitions relative to regulation of hospitals and
959 related institutions;
- 960 (16) Code Section 31-7-75, relating to the functions and powers of hospital authorities;
961 (17) Code Section 31-7-94, relating to grants to hospital authorities;
- 962 (18) Code Section 31-7-94.1, relating to the "Rural Hospital Assistance Act";
963 (19) Code Section 31-7-95, relating to funding of medical education provided by hospital
964 authorities and designated teaching hospitals;
- 965 (20) Code Section 31-7-150, relating to definitions relative to home health agencies;
966 (21) Code Section 31-7-250, relating to definitions relative to facility licensing and
967 employee records checks;
- 968 (22) Code Section 31-7-280, relating to annual health care provider reports;
969 (23) Code Section 31-7-300, relating to definitions relative to private home care
970 providers;
- 971 (24) Code Section 31-7-354, relating to authority to enforce laws relating to nursing
972 homes employee records checks;
- 973 (25) Code Section 31-7-400, relating to definitions relative to hospital acquisition;
974 (26) Code Section 31-8-46, relating to investigation of violations by a hospital;
975 (27) Code Section 31-8-106, relating to information to be provided to residents upon
976 admission into a long-term care facility;
- 977 (28) Code Section 31-8-151, relating to definitions relative to the Indigent Care Trust
978 Fund;
- 979 (29) Code Section 31-8-162, relating to definitions relative to nursing home provider
980 fees;
- 981 (30) Code Section 31-8-171, relating to definitions relative to quality assessment fees on
982 care management organizations;
- 983 (31) Code Section 31-8-192, relating to definitions relative to the "'Health Share'
984 Volunteers in Medicine Act";
- 985 (32) Code Section 31-11-81, relating to definitions relative to emergency services;
986 (33) Code Section 31-16-7, relating to reuse of kidney dialyzers;
- 987 (34) Code Section 31-18-3, relating to reporting procedures for traumatic brain and
988 spinal cord injuries;
- 989 (35) Code Section 31-20-1, relating to definitions relative to performance of sterilization
990 procedures;
- 991 (36) Code Section 31-21-5, relating to incineration or cremation of dead body or parts
992 thereof;

- 993 (37) Code Section 31-34-8, relating to funding under the "Physicians for Rural Areas
994 Assistance Act";
- 995 (38) Code Section 31-43-3, relating to the Commission on Men's Health;
- 996 (39) Code Section 33-19-10, relating to limitation on hospitals with which nonprofit
997 hospital service corporations are authorized to contract;
- 998 (40) Code Section 33-20A-31, relating to definitions relative to the "Patient's Right to
999 Independent Review Act";
- 1000 (41) Code Section 33-21-29, relating to point-of-service option for persons offered health
1001 care coverage through a health maintenance organization;
- 1002 (42) Code Section 33-21A-2, relating to definitions relative to Medicaid care
1003 management organizations;
- 1004 (43) Code Section 33-21A-3, relating to certificates of authority for care management
1005 organizations;
- 1006 (44) Code Section 33-21A-4, relating to reimbursement for emergency health care
1007 services;
- 1008 (45) Code Section 33-21A-5, relating to requirements relating to critical access hospitals;
- 1009 (46) Code Section 33-21A-6, relating to coverage for newborn infants until discharged
1010 from inpatient care;
- 1011 (47) Code Section 33-21A-7, relating to bundling of provider complaints and appeals;
- 1012 (48) Code Section 33-21A-8, relating to participation by dentists;
- 1013 (49) Code Section 33-21A-9, relating to submission and payment of claims;
- 1014 (50) Code Section 33-21A-11, relating to hospital statistical and reimbursement reports
1015 from care management organizations;
- 1016 (51) Code Section 33-24-56.1, relating to reimbursement of medical expense or disability
1017 benefit providers in personal injury cases;
- 1018 (52) Code Section 33-45-3, relating to certificate of authority requirement for operation
1019 of continuing care facilities;
- 1020 (53) Code Section 36-42-3, relating to definitions relative to the "Downtown
1021 Development Authorities Law";
- 1022 (54) Code Section 37-2-6.1, relating to community service boards;
- 1023 (55) Code Section 40-2-86.8, relating to special license plates supporting breast cancer
1024 related programs for the medically indigent;
- 1025 (56) Code Section 40-2-86.21, relating to special license plates promoting certain
1026 beneficial projects and supporting certain worthy agencies, funds, or nonprofit
1027 corporations;
- 1028 (57) Code Section 42-5-2, relating to responsibilities of governmental unit with custody
1029 of inmate generally;

- 1030 (58) Code Section 42-5-54, relating to information from inmates relating to medical
1031 insurance;
- 1032 (59) Code Section 43-1B-6, relating to entities excepted from prohibitions as to financing
1033 and referrals;
- 1034 (60) Code Section 43-34-24.1, relating to the Composite State Board of Medical
1035 Examiners as an independent agency;
- 1036 (61) Code Section 43-34-26.3, relating to delegation of certain medical acts to advanced
1037 practice registered nurse;
- 1038 (62) Code Section 43-34-27, relating to license requirement for persons engaged in
1039 practice of medicine;
- 1040 (63) Code Section 44-14-470, relating to liens on causes of action accruing to injured
1041 persons for costs of care and treatment of injuries arising out of such causes of action;
- 1042 (64) Code Section 45-18-15, relating to rules and regulations for the administration of
1043 the state employees' health insurance plan;
- 1044 (65) Code Section 45-18-100, relating to definitions relative to the Georgia Retiree
1045 Health Benefit Fund;
- 1046 (66) Code Section 45-18-102, relating to responsibilities, duties, and powers of the
1047 department, board, and commissioner of community health with regard to the Georgia
1048 Retiree Health Benefit Fund;
- 1049 (67) Code Section 49-4-6, relating to reserves, income, and resources to be disregarded
1050 in determining eligibility for public assistance;
- 1051 (68) Code Section 49-4-141, relating to definitions relative to Medicaid;
- 1052 (69) Code Section 49-4-142, relating to the authorization of the Department of
1053 Community Health to adopt and administer a state plan for medical assistance;
- 1054 (70) Code Section 49-4-146, relating to time for action on Medicaid claim;
- 1055 (71) Code Section 49-4-146.3, relating to forfeiture of property and proceeds obtained
1056 through Medicaid fraud;
- 1057 (72) Code Section 49-4-147, relating to enforcement of liens, claims, or offsets against
1058 assistance;
- 1059 (73) Code Section 49-4-147.2, relating to noneligibility of Department of Community
1060 Health to obtain nor be liable for interest on orders, judgments, and liquidated or
1061 unliquidated amounts;
- 1062 (74) Code Section 49-4-148, relating to recovery of assistance from third party liable for
1063 sickness, injury, disease, or disability;
- 1064 (75) Code Section 49-4-149, relating to lien of Department of Community Health against
1065 third parties;

- 1066 (76) Code Section 49-4-149.1, relating to submission by the Department of Community
 1067 Health of plan for family supplementation of Medicaid payments upon federal removal
 1068 of restrictions;
- 1069 (77) Code Section 49-4-150, relating to regulations as to maintenance and use of records;
- 1070 (78) Code Section 49-4-151, relating to obtaining information for investigations and
 1071 audits;
- 1072 (79) Code Section 49-4-152, relating to research and demonstration projects under
 1073 Medicaid;
- 1074 (80) Code Section 49-4-153, relating to administrative hearings and appeals under
 1075 Medicaid;
- 1076 (81) Code Section 49-4-156.1, relating to reimbursement of services rendered under
 1077 Article 5 of Chapter 6 of Title 49, relating to community care for the elderly;
- 1078 (82) Code Section 49-4-157, relating to construction of Article 7 of Chapter 4 of Title
 1079 49 with the federal Social Security Act;
- 1080 (83) Code Section 49-4-161, relating to definitions relative to the "Georgia Long-term
 1081 Care Partnership Program Act";
- 1082 (84) Code Section 49-4-162, relating to the establishment of the Georgia Qualified
 1083 Long-term Care Partnership Program;
- 1084 (85) Code Section 49-4-169.1, relating to definitions relative to therapy services for
 1085 children with disabilities;
- 1086 (86) Code Section 49-5-12, relating to licensing and inspection of child welfare agencies;
- 1087 (87) Code Section 49-5-272, relating to definitions relative to the PeachCare for Kids
 1088 Program;
- 1089 (88) Code Section 49-10-1, relating to the Georgia Board for Physician Workforce;
- 1090 (89) Code Section 50-13-9.1, relating to variances or waivers to agency rules;
- 1091 (90) Code Section 50-26-19, relating to financing acquisition, construction, and
 1092 equipping of health care facilities;
- 1093 (91) Code Section 51-2-5.1, relating to the relationship between hospital and health care
 1094 provider prerequisite to liability; and
- 1095 (92) Code Section 52-7-14, relating to collisions, accidents, and casualties relative to
 1096 watercraft.

1097 **SECTION 1-5.**

1098 The following Code sections of the Official Code of Georgia Annotated are amended by
 1099 replacing "Board of Community Health" wherever it occurs with "State Board of Health":

- 1100 (1) Code Section 20-2-880, relating to definitions relative to health insurance plans for
 1101 public school teachers;

- 1102 (2) Code Section 20-2-910, relating to definitions relative to health insurance plans for
 1103 public school employees;
- 1104 (3) Code Section 31-6-2, relating to definitions relative to state health planning and
 1105 development;
- 1106 (4) Code Section 31-6-21, relating to the Department of Community Health generally
 1107 relative to state health planning and development;
- 1108 (5) Code Section 31-7-1, relating to definitions relative to regulation of hospitals and
 1109 related institutions;
- 1110 (6) Code Section 31-8-155, relating to promulgation of rules and regulations for funding
 1111 expansions of eligibility and indigent care programs;
- 1112 (7) Code Section 45-18-1, relating to definitions relative to the state employees' health
 1113 insurance plan;
- 1114 (8) Code Section 45-18-12, relating to the creation of a health insurance fund for the
 1115 state employees' health insurance plan;
- 1116 (9) Code Section 45-18-100, relating to definitions relative to the Georgia Retiree Health
 1117 Benefit Fund;
- 1118 (10) Code Section 49-4-141, relating to definitions relative to Medicaid;
- 1119 (11) Code Section 49-4-143, relating to the power of the Board of Community Health
 1120 with respect to Medicaid;
- 1121 (12) Code Section 49-4-150, relating to regulations as to maintenance and use of records;
- 1122 (13) Code Section 49-4-153, relating to administrative hearings and appeals under
 1123 Medicaid; and
- 1124 (14) Code Section 49-5-272, relating to definitions relative to the PeachCare for Kids
 1125 Program.

1126 **SECTION 1-6.**

1127 The following Code sections of the Official Code of Georgia Annotated are amended by
 1128 replacing "commissioner of community health" wherever it occurs with "commissioner of
 1129 health":

- 1130 (1) Code Section 20-2-880, relating to definitions relative to health insurance plans for
 1131 public school teachers;
- 1132 (2) Code Section 20-2-896, relating to the administrative discharge of certain debts due
 1133 the health insurance fund for public school teachers;
- 1134 (3) Code Section 20-2-910, relating to definitions relative to health insurance plans for
 1135 public school employees;
- 1136 (4) Code Section 20-2-924, relating to the administrative discharge of certain debts due
 1137 the health insurance fund for public school employees;

- 1138 (5) Code Section 30-1-5, relating to the definition of a "hearing impaired person";
- 1139 (6) Code Section 31-7-1, relating to definitions relative to regulation of hospitals and
1140 related institutions;
- 1141 (7) Code Section 31-21-5, relating to incineration or cremation of dead body or parts
1142 thereof;
- 1143 (8) Code Section 33-21A-3, relating to certificates of authority for care management
1144 organizations;
- 1145 (9) Code Section 43-34-24.1, relating to the Composite State Board of Medical
1146 Examiners as an independent agency;
- 1147 (10) Code Section 45-18-1, relating to definitions relative to the state employees' health
1148 insurance plan;
- 1149 (11) Code Section 45-18-12, relating to the creation of a health insurance fund for the
1150 state employees' health insurance plan;
- 1151 (12) Code Section 45-18-13, relating to deposit of amounts from health insurance fund
1152 available for investment in trust account;
- 1153 (13) Code Section 45-18-15, relating to rules and regulations relative to the state
1154 employees' health insurance plan;
- 1155 (14) Code Section 45-18-16, relating to certification to departments and other entities of
1156 the state of employer payment percentage for the ensuing fiscal year;
- 1157 (15) Code Section 45-18-18, relating to the discharge of certain debts or obligations due
1158 the health insurance fund for employees of the state;
- 1159 (16) Code Section 45-18-100, relating to definitions relative to the Georgia Retiree
1160 Health Benefit Fund;
- 1161 (17) Code Section 49-4-144, relating to the chief administrative officer of the
1162 Department of Community Health;
- 1163 (18) Code Section 49-4-147, relating to enforcement of liens, claims, or offsets against
1164 assistance under Medicaid;
- 1165 (19) Code Section 49-4-148, relating to recovery of assistance from third party liable for
1166 sickness, injury, disease, or disability under Medicaid;
- 1167 (20) Code Section 49-4-150, relating to regulations as to maintenance and use of records
1168 relating to Medicaid;
- 1169 (21) Code Section 49-4-153, relating to administrative hearings and appeals under
1170 Medicaid; and
- 1171 (22) Code Section 50-5-69, relating to purchases without competitive bidding by state
1172 agencies.

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SECTION 1-7.

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

- (1) Code Section 4-4-69, relating to regulation of manufacture and use of disease vectors in livestock;
- (2) Code Section 4-10-10, relating to the joint regulation of the sale or transportation of exotic or pet birds;
- (3) Code Section 10-1-393, relating to unfair or deceptive practices in consumer transactions which are deemed unlawful;
- (4) Code Section 12-2-8, relating to promulgation of minimum standards and procedures for protection of natural resources, environment, and vital areas of the state;
- (5) Code Section 12-3-9, relating to adoption and promulgation by the Board of Natural Resources of rules and regulations regarding parks, historic sites, and recreational areas;
- (6) Code Section 12-5-175, relating to fluoridation of public water systems;
- (7) Code Section 12-8-1, relating to notice of denial of individual sewage disposal permits;
- (8) Code Section 15-21-142, relating to the establishment of the Brain and Spinal Injury Trust Fund Commission;
- (9) Code Section 16-6-13.1, relating to testing for sexually transmitted diseases;
- (10) Code Section 16-12-141, relating to when abortion is legal;
- (11) Code Section 17-10-15, relating to AIDS transmitting crimes;
- (12) Code Section 19-3-41, relating to preparation by the Department of Human Resources of a marriage manual on family planning and other material;
- (13) Code Section 20-2-142, relating to prescribed courses in elementary and secondary schools on alcohol, tobacco, and drug use;
- (14) Code Section 20-2-143, relating to sex education and AIDS prevention instruction in elementary and secondary schools;
- (15) Code Section 20-2-144, relating to mandatory instruction in elementary and secondary schools concerning alcohol and drug use;
- (16) Code Section 20-2-770, relating to rules and regulations for nutritional screening and eye, ear, and dental examinations of students;
- (17) Code Section 20-2-771, relating to immunization of students in elementary and secondary education;
- (18) Code Section 20-2-772, relating to rules and regulations for screening of students for scoliosis;

- 1209 (19) Code Section 24-9-40, relating to when medical information may be released by a
1210 physician, hospital, health care facility, or pharmacist;
- 1211 (20) Code Section 24-9-47, relating to disclosure of AIDS confidential information;
- 1212 (21) Code Section 25-3-6, relating to the effect of certain laws relating to local fire
1213 departments on the powers and duties of other officials and departments;
- 1214 (22) Code Section 26-2-371, relating to permits required for food service establishments;
- 1215 (23) Code Section 26-2-372, relating to the issuance of permits for food service
1216 establishments;
- 1217 (24) Code Section 26-2-373, relating to promulgation of rules, regulations, and standards
1218 by the Department of Human Resources and county boards of health for food service
1219 establishments;
- 1220 (25) Code Section 26-2-374, relating to contents and posting of notices relating to
1221 assistance to persons choking;
- 1222 (26) Code Section 26-2-375, relating to enforcement of laws regarding the regulation of
1223 food service establishments;
- 1224 (27) Code Section 26-2-376, relating to review of final order or determination by
1225 Department of Human Resources regarding regulation of a food service establishment;
- 1226 (28) Code Section 26-2-377, relating to penalties for violation of laws regarding the
1227 regulation of food service establishments;
- 1228 (29) Code Section 26-3-18, relating to assistance in enforcement from Department of
1229 Agriculture or Department of Human Resources with respect to standards, labeling, and
1230 adulteration of drugs and cosmetics;
- 1231 (30) Code Section 26-4-85, relating to patient counseling by a pharmacist;
- 1232 (31) Code Section 26-4-116, relating to emergency service providers with respect to
1233 dangerous drugs and controlled substances;
- 1234 (32) Code Section 26-4-172, relating to license requirements under the "Nuclear
1235 Pharmacy Law";
- 1236 (33) Code Section 26-5-3, relating to definitions relative to the "Drug Abuse Treatment
1237 and Education Act";
- 1238 (34) Code Section 31-1-3.2, relating to hearing screenings for newborns;
- 1239 (35) Code Section 31-3-4, relating to powers of county boards of health;
- 1240 (36) Code Section 31-3-11, relating to appointments of director and staff of county board
1241 of health;
- 1242 (37) Code Section 31-5-1, relating to adoption of rules and regulations by the
1243 Department of Human Resources and county boards of health;
- 1244 (38) Code Section 31-5-9, relating to injunctions for enjoining violations of the
1245 provisions of Title 31;

- 1246 (39) Code Section 31-5-20, relating to the definition of the term "inspection warrant"
1247 with respect to enforcement of certain public health laws;
- 1248 (40) Code Section 31-5-21, relating to persons who may obtain inspection warrants;
- 1249 (41) Code Section 31-7-133, relating to confidentiality of review organization's records;
- 1250 (42) Code Section 31-7-172, relating to definitions relative to hospice care;
- 1251 (43) Code Section 31-7-175, relating to the administration of the article of the "Georgia
1252 Hospice Law";
- 1253 (44) Code Section 31-8-1, relating to the establishment and purpose of the Hospital Care
1254 for the Indigent Program;
- 1255 (45) Code Section 31-8-36, relating to state appropriations to the Nonresident Indigent
1256 Health Care Fund;
- 1257 (46) Code Section 31-8-46, relating to investigation of violations by a hospital;
- 1258 (47) Code Section 31-8-193, relating to the establishment of a program to provide health
1259 care services to low-income recipients;
- 1260 (48) Code Section 31-9A-4, relating to information to be made available by the
1261 Department of Human Resources under the "Woman's Right to Know Act";
- 1262 (49) Code Section 31-9A-6, relating to reporting requirements under the "Woman's Right
1263 to Know Act";
- 1264 (50) Code Section 31-10-1, relating to definitions relative to vital records;
- 1265 (51) Code Section 31-11-1, relating to findings of the General Assembly and declaration
1266 of policy with respect to emergency medical services;
- 1267 (52) Code Section 31-11-3, relating to recommendations by local coordinating entity as
1268 to administration of the Emergency Medical Systems Communication Program;
- 1269 (53) Code Section 31-11-81, relating to definitions relative to emergency services;
- 1270 (54) Code Section 31-11-100, relating to definitions relative to the Georgia Trauma Care
1271 Network Commission;
- 1272 (55) Code Section 31-11-101, relating to the creation of the Georgia Trauma Care
1273 Network Commission;
- 1274 (56) Code Section 31-11-102, relating to the duties and responsibilities of the Georgia
1275 Trauma Care Network Commission;
- 1276 (57) Code Section 31-11-110, relating to legislative findings relative to a system of
1277 certified stroke centers;
- 1278 (58) Code Section 31-12-1, relating to the power to conduct research and studies relative
1279 to the control of hazardous conditions, preventable diseases, and metabolic diseases;
- 1280 (59) Code Section 31-12A-9, relating to a continuing education program relative to the
1281 "Georgia Smokefree Air Act of 2005";

- 1282 (60) Code Section 31-12A-10, relating to enforcement by the Department of Human
1283 Resources and county boards of health of the "Georgia Smokefree Air Act of 2005";
- 1284 (61) Code Section 31-13-3, relating to definitions relative to the "Georgia Radiation
1285 Control Act";
- 1286 (62) Code Section 31-13-4, relating to administration of state-wide radiation control
1287 program for radiation generating equipment;
- 1288 (63) Code Section 31-13-5, relating to the powers and duties of the Department of
1289 Human Resources and the Department of Natural Resources under the "Georgia
1290 Radiation Control Act";
- 1291 (64) Code Section 31-13-8.2, relating to licensing of diagnostic and therapeutic medical
1292 uses of radioactive materials;
- 1293 (65) Code Section 31-13-9, relating to records of use of radiation sources and exposure
1294 of employees to radiation;
- 1295 (66) Code Section 31-13-10, relating to suspension, revocation, and amendment of
1296 license or registration of radiation generating equipment;
- 1297 (67) Code Section 31-13-11, relating to impounding and condemnation of radiation
1298 generating equipment and radioactive materials;
- 1299 (68) Code Section 31-13-12, relating to the license requirements under the "Georgia
1300 Radiation Control Act";
- 1301 (69) Code Section 31-13-13, relating to penalties under the "Georgia Radiation Control
1302 Act";
- 1303 (70) Code Section 31-13-23, relating to transfer of powers and duties between the
1304 Department of Natural Resources and the Department of Human Resources under the
1305 "Georgia Radiation Control Act";
- 1306 (71) Code Section 31-14-2, relating to petition for commitment of a person who has
1307 active tuberculosis;
- 1308 (72) Code Section 31-14-9, relating to procedure for securing discharge of a person
1309 committed for active tuberculosis;
- 1310 (73) Code Section 31-15-2, relating to the establishment of a program for the prevention,
1311 control, and treatment of cancer;
- 1312 (74) Code Section 31-16-2, relating to the establishment of a program for the prevention,
1313 control, and treatment of kidney disease;
- 1314 (75) Code Section 31-17-2, relating to the report of diagnosis or treatment to health
1315 authorities of a case of venereal disease;
- 1316 (76) Code Section 31-17-3, relating to examination and treatment by health authorities
1317 for venereal disease;
- 1318 (77) Code Section 31-17-4.2, relating to HIV pregnancy screening;

- 1319 (78) Code Section 31-17A-2, relating to examination of persons infected or suspected
1320 of being infected with HIV;
- 1321 (79) Code Section 31-17A-3, relating to refusal to consent to an HIV test;
- 1322 (80) Code Section 31-18-4, relating to the duties of the Brain and Spinal Injury Trust
1323 Fund Commission;
- 1324 (81) Code Section 31-21-25, relating to bonds required prior to receiving unclaimed
1325 bodies;
- 1326 (82) Code Section 31-22-2, relating to licenses to operate clinical laboratories;
- 1327 (83) Code Section 31-22-9.1, relating to who may perform HIV tests;
- 1328 (84) Code Section 31-22-9.2, relating to report of positive HIV tests;
- 1329 (85) Code Section 31-23-3, relating to hospitals or medical schools which may operate
1330 eye banks;
- 1331 (86) Code Section 31-24-4, relating to labeling of containers of blood under "The Blood
1332 Labeling Act";
- 1333 (87) Code Section 31-26-2, relating to the requirement of a certificate to practice
1334 midwifery;
- 1335 (88) Code Section 31-27-2, relating to the requirement of a permit for a mass gathering;
- 1336 (89) Code Section 31-28-2, relating to issuance of permits to operate a tourist court;
- 1337 (90) Code Section 31-28-5, relating to standards for health, sanitation, and safety of
1338 tourist courts;
- 1339 (91) Code Section 31-28-6, relating to inspection of premises of tourist courts;
- 1340 (92) Code Section 31-30-9, relating to effectiveness of chapter on reports on veterans
1341 exposed to agent orange;
- 1342 (93) Code Section 31-34-5, relating to service cancelable loans under the "Physicians for
1343 Rural Areas Assistance Act";
- 1344 (94) Code Section 31-35-10, relating to definitions relative to bioterrorism protection for
1345 emergency providers;
- 1346 (95) Code Section 31-40-2, relating to issuance of permits for tattoo studios;
- 1347 (96) Code Section 31-40-5, relating to rules and regulations relative to tattoo studios;
- 1348 (97) Code Section 31-40-6, relating to enforcement of chapter regulating tattoo studios;
- 1349 (98) Code Section 31-40-8, relating to a public education program relative to tattoo
1350 studios;
- 1351 (99) Code Section 31-45-8, relating to inspections by the county board of health of
1352 public swimming pools;
- 1353 (100) Code Section 31-45-9, relating to suspension or revocation of permit for a public
1354 swimming pool;

- 1355 (101) Code Section 31-45-10, relating to rules and regulations relative to public
1356 swimming pools;
- 1357 (102) Code Section 31-45-11, relating to enforcement of rules and regulations relative
1358 to public swimming pools;
- 1359 (103) Code Section 31-46-4, relating to the Georgia Commission for Saving the Cure;
- 1360 (104) Code Section 33-24-59.7, relating to insurance coverage for the treatment of
1361 morbidly obese patients;
- 1362 (105) Code Section 33-29-3.2, relating to individual accident and sickness insurance
1363 coverage for mammograms, Pap smears, and prostate specific antigen tests;
- 1364 (106) Code Section 33-30-4.2, relating to group accident and sickness insurance
1365 coverage for mammograms, Pap smears, and prostate specific antigen tests;
- 1366 (107) Code Section 33-44-3, relating to the creation of the Georgia High Risk Health
1367 Insurance Plan;
- 1368 (108) Code Section 34-9-1, relating to definitions relative to workers' compensation;
- 1369 (109) Code Section 34-9-415, relating to testing under drug-free workplace programs;
- 1370 (110) Code Section 35-1-8, relating to acquisition, collection, classification, and
1371 preservation of information assisting in identifying deceased persons and locating missing
1372 persons;
- 1373 (111) Code Section 36-62-2, relating to definitions relative to the "Development
1374 Authorities Law";
- 1375 (112) Code Section 38-3-22, relating to the Governor's emergency management powers
1376 and duties;
- 1377 (113) Code Section 38-3-51, relating to emergency powers of the Governor;
- 1378 (114) Code Section 40-5-25, relating to applications for instruction permits and drivers'
1379 licenses;
- 1380 (115) Code Section 40-6-392, relating to chemical tests for alcohol or drugs in blood
1381 relating to violations of driving under the influence of alcohol, drugs, or other
1382 intoxicating substances;
- 1383 (116) Code Section 42-1-7, relating to notification to transporting law enforcement
1384 agency of inmate's or patient's infectious or communicable disease;
- 1385 (117) Code Section 42-4-6, relating to confinement and care of tubercular inmates;
- 1386 (118) Code Section 42-4-32, relating to sanitation and health requirements for jails;
- 1387 (119) Code Section 43-10-6, relating to rules and regulations as to sanitary requirements
1388 of beauty shops, beauty salons, schools of cosmetology, schools of esthetics, schools of
1389 hair design, and schools of nail care;
- 1390 (120) Code Section 43-11-74, relating to direct supervision requirement of dental
1391 hygienists by a licensed dentist;

- 1392 (121) Code Section 43-14-2, relating to definitions relative to the regulation of electrical
 1393 contractors, plumbers, conditioned air contractors, low-voltage contractors, and utility
 1394 contractors;
- 1395 (122) Code Section 43-18-1, relating to definitions relative to the regulation of funeral
 1396 directors and establishments, embalmers, and crematories;
- 1397 (123) Code Section 43-18-46, relating to grounds for denial or revocation of license or
 1398 registration to operate a funeral establishment or to practice embalming or funeral
 1399 directing;
- 1400 (124) Code Section 43-27-1, relating to definitions relative to nursing home
 1401 administrators;
- 1402 (125) Code Section 43-34-26.1, relating to delegation of authority to nurse or physician's
 1403 assistant;
- 1404 (126) Code Section 43-34-26.3, relating to delegation of certain medical acts to advanced
 1405 practice registered nurse;
- 1406 (127) Code Section 43-34-103, relating to applications for utilization of physician's
 1407 assistants;
- 1408 (128) Code Section 45-18-1, relating to definitions relative to the state employees' health
 1409 insurance plan;
- 1410 (129) Code Section 45-18-32, relating to administration of deferred compensation plans
 1411 for employees of the state;
- 1412 (130) Code Section 46-11-4, relating to regulation of transportation of hazardous
 1413 materials on public roads of the state generally;
- 1414 (131) Code Section 49-4-152.3, relating to reuse of unit dosage drugs under Medicaid;
- 1415 (132) Code Section 50-13-4, relating to procedural requirements for adoption,
 1416 amendment, or repeal of rules by a state agency;
- 1417 (133) Code Section 50-18-72, relating to when public disclosure is not required under
 1418 open records laws;
- 1419 (134) Code Section 50-18-76, relating to written matter exempt from disclosure under
 1420 vital records laws; and
- 1421 (135) Code Section 50-26-4, relating to definitions relative to the "Georgia Housing and
 1422 Finance Authority Act."

1423

SECTION 1-8.

1424 The following Code sections of the Official Code of Georgia Annotated are amended by
 1425 replacing "Board of Human Resources" wherever it occurs with "State Board of Health":

- 1426 (1) Code Section 31-1-3.2, relating to hearing screenings for newborns;
 1427 (2) Code Section 31-7-304, relating to fees on private home care providers;

- 1428 (3) Code Section 31-11-2, relating to definitions relative to emergency medical services;
 1429 (4) Code Section 31-11-3, relating to recommendations by local coordinating entity as
 1430 to administration of the Emergency Medical Systems Communication Program;
 1431 (5) Code Section 31-11-31.1, relating to license fees on ambulance services;
 1432 (6) Code Section 31-12-14, relating to breast cancer, prostate cancer, and ovarian cancer
 1433 research program fund;
 1434 (7) Code Section 31-22-1, relating to definitions relative to clinical laboratories;
 1435 (8) Code Section 42-9-12, relating to appointment of replacement for incapacitated
 1436 member on the State Board of Pardons and Paroles; and
 1437 (9) Code Section 43-7-9, relating to general powers and duties of the State Board of
 1438 Barbers.

1439 **SECTION 1-9.**

1440 The following Code sections of the Official Code of Georgia Annotated are amended by
 1441 replacing "commissioner of human resources" wherever it occurs with "commissioner of
 1442 health":

- 1443 (1) Code Section 8-2-24, relating to appointment of advisory committee relating to state
 1444 building, plumbing, and electrical codes;
 1445 (2) Code Section 12-5-524, relating to the creation of the Water Council;
 1446 (3) Code Section 16-12-141, relating to when abortion is legal;
 1447 (4) Code Section 16-12-141.1, relating to disposal of aborted fetuses;
 1448 (5) Code Section 21-2-231, relating to lists of persons convicted of felonies, persons
 1449 declared mentally incompetent, and deceased persons provided to Secretary of State with
 1450 respect to registration of voters;
 1451 (6) Code Section 26-2-393, relating to enforcement of article relating to nonprofit food
 1452 sales and food service;
 1453 (7) Code Section 31-7-176.1, relating to determination or pronouncement of death of a
 1454 patient in hospice care;
 1455 (8) Code Section 31-8-32, relating to determination of indigency for hospital care for
 1456 nonresidents;
 1457 (9) Code Section 31-8-43, relating to determination of indigency for hospital care for
 1458 pregnant women;
 1459 (10) Code Section 31-9A-2, relating to definitions relative to the "Woman's Right to
 1460 Know Act";
 1461 (11) Code Section 31-10-1, relating to definitions relative to vital records;
 1462 (12) Code Section 31-11-2, relating to definitions relative to emergency medical
 1463 services;

- 1464 (13) Code Section 31-11-36, relating to suspension or revocation of licenses for
1465 ambulance services;
- 1466 (14) Code Section 31-16-3, relating to functions of the Kidney Disease Advisory
1467 Committee;
- 1468 (15) Code Section 31-27-7, relating to emergency powers of the Governor regarding
1469 mass gatherings;
- 1470 (16) Code Section 31-35-10, relating to definitions relative to bioterrorism protection for
1471 emergency responders;
- 1472 (17) Code Section 31-36A-7, relating to petition for health care placement transfer,
1473 admission, or discharge order by health care facility;
- 1474 (18) Code Section 33-20B-3.1, relating to health maintenance organizations' expansion
1475 into rural areas;
- 1476 (19) Code Section 33-21-3, relating to grounds and procedure for issuance or denial of
1477 certificate of authority for a health maintenance organization;
- 1478 (20) Code Section 33-21-5, relating to suspension or revocation of certificate of authority
1479 for a health maintenance organization;
- 1480 (21) Code Section 33-21-15, relating to filing of annual reports by health maintenance
1481 organizations;
- 1482 (22) Code Section 33-21-17, relating to examinations of health maintenance
1483 organizations and providers;
- 1484 (23) Code Section 33-21-18, relating to adoption of rules and regulations generally
1485 relative to health maintenance organizations;
- 1486 (24) Code Section 33-21-20, relating to conduct of hearings generally relative to health
1487 maintenance organizations;
- 1488 (25) Code Section 33-21-21, relating to authority of commissioner of human resources
1489 to contract for making of recommendations required by health maintenance organizations
1490 laws;
- 1491 (26) Code Section 33-21-27, relating to enforcement of health maintenance organizations
1492 laws;
- 1493 (27) Code Section 38-2-10, relating to use of National Guard in drug law enforcement,
1494 provision of medical care in medically underserved areas, and for youth opportunity
1495 training programs;
- 1496 (28) Code Section 42-4-32, relating to sanitation and health requirements in jails
1497 generally;
- 1498 (29) Code Section 42-9-12, relating to appointment of replacement for incapacitated
1499 member on the State Board of Pardons and Paroles;
- 1500 (30) Code Section 43-1A-4, relating to the Occupational Regulation Review Council;

- 1501 (31) Code Section 43-27-2, relating to creation of the State Board of Nursing Home
 1502 Administrators;
- 1503 (32) Code Section 43-45-3, relating to creation of the State Structural Pest Control
 1504 Commission;
- 1505 (33) Code Section 45-9-73, relating to the creation of the Georgia Public School
 1506 Personnel Indemnification Commission; and
- 1507 (34) Code Section 45-9-83, relating to the creation of the Georgia State Indemnification
 1508 Commission.

1509 **SECTION 1-10.**

1510 The following Code sections of the Official Code of Georgia Annotated are amended by
 1511 replacing "Chapter 5A of Title 31" wherever it occurs with "Chapter 2 of Title 31":

- 1512 (1) Code Section 20-2-880, relating to definitions relative to health insurance plans for
 1513 public school teachers;
- 1514 (2) Code Section 20-2-910, relating to definitions relative to health insurance plans for
 1515 public school employees;
- 1516 (3) Code Section 33-20A-31, relating to definitions relative to the "Patient's Right to
 1517 Independent Review Act";
- 1518 (4) Code Section 45-18-1, relating to definitions relative to the state employees' health
 1519 insurance plan;
- 1520 (5) Code Section 49-4-141, relating to definitions relative to Medicaid;
- 1521 (6) Code Section 49-4-142, relating to the authorization of the Department of
 1522 Community Health to adopt and administer a state plan for medical assistance;
- 1523 (7) Code Section 49-4-143, relating to the power of the Board of Community Health with
 1524 respect to Medicaid; and
- 1525 (8) Code Section 49-4-144, relating to the chief administrative officer of the Department
 1526 of Community Health.

1527 **SECTION 1-11.**

1528 The following Code sections of the Official Code of Georgia Annotated are amended by
 1529 replacing "Chapter 5A of this title" wherever it occurs with "Chapter 2 of this title":

- 1530 (1) Code Section 31-6-2, relating to definitions relative to state health planning and
 1531 development;
- 1532 (2) Code Section 31-6-21, relating to the Department of Community Health generally
 1533 under state health planning and development;
- 1534 (3) Code Section 31-7-94.1, relating to the "Rural Hospital Assistance Act;"
- 1535 (4) Code Section 31-8-151, relating to definitions relative to the indigent care trust fund;

- 1536 (5) Code Section 31-8-162, relating to definitions relative to nursing home provider fees;
 1537 and
 1538 (6) Code Section 31-8-171, relating to definitions relative to quality assessment fees on
 1539 care management organizations.

1540 **SECTION 1-12.**

1541 The following Code sections of the Official Code of Georgia Annotated are amended by
 1542 replacing "Code Section 31-2-6" wherever it occurs with "Code Section 31-2-11":

- 1543 (1) Code Section 25-2-40, relating to smoke detectors required in new dwellings and
 1544 dwelling units;
 1545 (2) Code Section 31-7-2.1, relating to rules and regulations relative to regulation of
 1546 hospitals and related institutions;
 1547 (3) Code Section 31-7-302, relating to rules and regulations relative to private home care
 1548 providers;
 1549 (4) Code Section 31-8-60, relating to retaliation against a resident of a long-term care
 1550 facility and prohibition against interference with the ombudsman;
 1551 (5) Code Section 31-8-135, relating to hearings under the "Remedies for Residents of
 1552 Personal Care Homes Act";
 1553 (6) Code Section 31-11-9, relating to enforcement of emergency medical services laws;
 1554 and
 1555 (7) Code Section 31-44-11, relating to the authority of the Department of Human
 1556 Resources to deal with violations of renal disease facilities laws.

1557 **SECTION 1-13.**

1558 The following Code sections of the Official Code of Georgia Annotated are amended by
 1559 replacing "Code Section 31-2-7" wherever it occurs with "Code Section 31-2-12":

- 1560 (1) Code Section 31-3-5, relating to functions of county boards of health;
 1561 (2) Code Section 31-3-5.1, relating to conformity prerequisite to building permit; and
 1562 (3) Code Section 50-13-4, relating to procedural requirements for adoption, amendment,
 1563 or repeal of rules.

1564 **SECTION 1-14.**

1565 Code Section 10-1-393 of the Official Code of Georgia Annotated, relating to unfair or
 1566 deceptive practices in consumer transactions which are deemed unlawful, is amended by
 1567 revising paragraph (26) of subsection (b) as follows:

- 1568 "(26) With respect to any individual or facility providing personal care services:

1569 (A) Any person or entity not duly licensed or registered as a personal care home
 1570 formally or informally offering, advertising to, or soliciting the public for residents or
 1571 referrals;

1572 (B) Any personal care home, as defined in subsection (a) of Code Section 31-7-12,
 1573 offering, advertising, or soliciting the public to provide services:

1574 (i) Which are outside the scope of personal care services; and

1575 (ii) For which it has not been specifically authorized.

1576 Nothing in this subparagraph prohibits advertising by a personal care home for services
 1577 authorized by the Department of ~~Human Resources~~ Health under a waiver or variance
 1578 pursuant to subsection (b) of Code Section ~~31-2-4~~ 31-2-9;

1579 (C) For purposes of this paragraph, 'personal care' means protective care and watchful
 1580 oversight of a resident who needs a watchful environment but who does not have an
 1581 illness, injury, or disability which requires chronic or convalescent care including
 1582 medical and nursing services.

1583 The provisions of this paragraph shall be enforced following consultation with the
 1584 Department of ~~Human Resources~~ Health which shall retain primary responsibility for
 1585 issues relating to licensure of any individual or facility providing personal care services;"

1586 **SECTION 1-15.**

1587 Code Section 12-8-41 of the Official Code of Georgia Annotated, relating to permits issued
 1588 by the Department of Natural Resources for land disposal sites, is amended as follows:

1589 "12-8-41.

1590 The department shall provide by rule or regulation for the regulation and permitting of any
 1591 land disposal site that receives septic tank waste from any one or more septic tank pumping
 1592 and hauling businesses. Any new permit issued for such type of site on or after July 1,
 1593 2007, shall be issued by the department under this Code section. Any such type of site that
 1594 as of June 30, 2007, operated under a valid permit issued on or before such date by the
 1595 Department of Human Resources (now known as the Department of Health for these
 1596 purposes) under Code Section ~~31-2-8~~ 31-2-13 may continue to operate under such Code
 1597 section until July 1, 2012, but a permit shall be obtained from the department under this
 1598 Code section prior to such date in order to continue such operation thereafter."

1599 **SECTION 1-16.**

1600 Code Section 15-11-66.1 of the Official Code of Georgia Annotated, relating to disposition
 1601 of a child committing delinquent act constituting AIDS transmitting crime, is amended by
 1602 revising subsection (e) as follows:

1603 "(e) If a child is required by this Code section to submit to an HIV test and is thereby
 1604 determined to be infected with HIV, that determination and the name of the child shall be
 1605 deemed to be AIDS confidential information and shall be reported to:

1606 (1) The Department of Juvenile Justice or the Department of Corrections, as the case
 1607 may be, and the Department of ~~Human Resources~~ Health, the latter of which may
 1608 disclose the name of the child if necessary to provide and shall provide counseling to
 1609 each victim of that child's AIDS transmitting crime or to any parent or guardian of any
 1610 victim who is a minor or incompetent person, if the Department of Juvenile Justice or the
 1611 Department of Corrections believes the crime posed a reasonable risk of transmitting HIV
 1612 to the victim;

1613 (2) The court which ordered the HIV test; and

1614 (3) Those persons in charge of any facility to which the child has been confined by order
 1615 of the court. In addition to any other restrictions regarding the confinement of children,
 1616 a child determined to be an HIV infected person may be confined in that facility
 1617 separately from any other children in that facility other than those who have been
 1618 determined to be infected with HIV if:

1619 (A) That child is reasonably believed to be sexually active while confined;

1620 (B) That child is reasonably believed to be sexually predatory either during or prior to
 1621 detention; or

1622 (C) The commissioner of juvenile justice or the commissioner of corrections, as the
 1623 case may be, reasonably determines that other circumstances or conditions exist which
 1624 indicate that separate confinement would be warranted."

1625 **SECTION 1-17.**

1626 Code Section 15-21-143 of the Official Code of Georgia Annotated, relating to appointment
 1627 of members and personnel of the Brain and Spinal Injury Trust Fund Commission, is
 1628 amended as follows:

1629 "15-21-143.

1630 (a) The Brain and Spinal Injury Trust Fund Commission shall consist of 15 members who
 1631 shall serve for terms of two years, except that with respect to the first members appointed,
 1632 five members shall be appointed for a term of three years, five for a term of two years, and
 1633 five for a term of one year. The following agencies may each appoint one member of the
 1634 commission:

1635 (1) The Division of Rehabilitation Services of the Department of Labor;

1636 (2) The State Board of Education;

1637 (3) The Department of Public Safety;

1638 (4) The Department of ~~Community~~ Health; and

1639 (5) The Department of Human ~~Resources~~ Services.

1640 The remaining ten members of the commission shall be appointed by the Governor, seven
 1641 of whom shall be citizens who have sustained brain or spinal cord injury or members of
 1642 such persons' immediate families, no more than one of whom shall reside in the same
 1643 geographic area of the state which constitutes a health district established by the
 1644 Department of ~~Human Resources~~ Health. The Governor is authorized but not required to
 1645 appoint the remaining three members from recommendations submitted by the Private
 1646 Rehabilitation Suppliers of Georgia, the Georgia Hospital Association, the Brain Injury
 1647 Association of Georgia, the Medical Association of Georgia, and the Georgia State Medical
 1648 Association. The Governor shall also establish initial terms of office for all 15 members
 1649 of the board within the limitations of this subsection.

1650 (b) In the event of death, resignation, disqualification, or removal for any reason of any
 1651 member of the commission, the vacancy shall be filled in the same manner as the original
 1652 appointment and the successor shall serve for the unexpired term.

1653 (c) Membership on the commission does not constitute public office, and no member shall
 1654 be disqualified from holding public office by reason of his or her membership.

1655 (d) The Governor shall designate a chairperson of the commission from among the
 1656 members, which chairperson shall serve in that position at the pleasure of the Governor.
 1657 The commission may elect such other officers and committees as it considers appropriate.

1658 (e) The commission, with the approval of the Governor, may employ such professional,
 1659 technical, or clerical personnel as deemed necessary to carry out the purposes of this
 1660 chapter."

1661 **SECTION 1-18.**

1662 Code Section 17-18-1 of the Official Code of Georgia Annotated, relating to duty of certain
 1663 officials to offer written statement of information to victims of rape or forcible sodomy, is
 1664 amended as follows:

1665 "17-18-1.

1666 When any employee of the ~~Department of Human Resources~~, Department of Human
 1667 Services, Department of Health, Department of Behavioral Health, a law enforcement
 1668 agency, or a court has reason to believe that he or she in the course of official duties is
 1669 speaking to an adult who is or has been a victim of a violation of Code Section 16-6-1,
 1670 relating to rape, or Code Section 16-6-2, relating to aggravated sodomy, such employee
 1671 shall offer or provide such adult a written statement of information for victims of rape or
 1672 aggravated sodomy. Such written statement shall, at a minimum, include the information
 1673 set out in Code Section 17-18-2 and may include additional information regarding

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

SECTION 1-19.

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

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

SECTION 1-20.

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

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

SECTION 1-21.

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

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

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

- 1708 (5) The chairperson of the Board of Human ~~Resources~~ Services;
- 1709 (6) The director of the Division of Family and Children Services of the Department of
- 1710 Human ~~Resources~~ Services;
- 1711 (7) The director of the Georgia Bureau of Investigation;
- 1712 (8) The chairperson of the Criminal Justice Coordinating Council;
- 1713 (9) A member of the Georgia Senate appointed by the Lieutenant Governor;
- 1714 (10) A member of the Georgia House of Representatives appointed by the Speaker of the
- 1715 House of Representatives;
- 1716 (11) A local law enforcement official appointed by the Governor;
- 1717 (12) A superior court judge appointed by the Governor;
- 1718 (13) A coroner appointed by the Governor;
- 1719 (14) The Child Advocate for the Protection of Children;
- 1720 (15) The director of the Division of Public Health of the Department of ~~Human~~
- 1721 ~~Resources~~ Health; and
- 1722 (16) The ~~director~~ commissioner of the ~~Division of Mental Health, Developmental~~
- 1723 ~~Disabilities, and Addictive Diseases of the Department of Human Resources~~ behavioral
- 1724 health."

1725 **SECTION 1-22.**

1726 Code Section 20-2-260 of the Official Code of Georgia Annotated, relating to capital outlay

1727 funds generally, is amended by revising paragraphs (5) and (8) of subsection (c) as follows:

1728 "(5) To develop a state-wide needs assessment for purposes of planning and developing

1729 policies, anticipating state-wide needs for educational facilities, and providing assistance

1730 to local school systems in developing educational facilities plans. The state-wide needs

1731 assessment shall be developed from, among other sources, vital statistics published by the

1732 Department of ~~Human Resources~~ Health, census data published by the Bureau of the

1733 Census, local school system educational facilities and real property inventories, educational

1734 facilities surveys, full-time equivalent student projection research, and educational facilities

1735 construction plans; shall reflect circumstances where rapid population growth is caused by

1736 factors not reflected in full-time equivalent student projection research; and shall give

1737 priority to elementary school construction. In addition, the state board shall develop a

1738 consistent, systematic research approach to full-time equivalent student projections which

1739 will be used in the development of needs within each local unit. Projections shall not be

1740 confined to full-time equivalent resident students but shall be based on full-time equivalent

1741 student counts which include full-time equivalent nonresident students, whether or not such

1742 full-time equivalent nonresident students attend school pursuant to a contract between local

1743 school systems. The full-time equivalent projection shall be calculated in accordance with

1744 subsection (m) of this Code section. The survey team will use such projections in
 1745 determining the improvements needed for the five-year planning period. The state board
 1746 shall also develop schedules for allowable square footage and cost per square foot and
 1747 review these schedules annually. The cost estimate for each recommended improvement
 1748 included in the plan shall be based on these schedules. Any increase in cost or square
 1749 footage for a project beyond that allowed by state board schedules for such projects shall
 1750 be the responsibility of the local school system and shall not count toward present or future
 1751 required local participation. The schedules for allowable square footage and cost per
 1752 square foot shall be specified in regulations by the State Board of Education;"

1753 "(8) To coordinate construction project reviews with the state fire marshal's office and the
 1754 Department of ~~Human Resources~~ Health;"

1755 SECTION 1-23.

1756 Code Section 26-4-192 of the Official Code of Georgia Annotated, relating to the state-wide
 1757 program for distribution of unused prescription drugs for the benefit of medically indigent
 1758 persons, is amended as follows:

1759 "26-4-192.

1760 (a) The Georgia State Board of Pharmacy, ~~the Department of Human Resources~~, and the
 1761 Department of ~~Community~~ Health shall jointly develop and implement a state-wide
 1762 program consistent with public health and safety standards through which unused
 1763 prescription drugs, other than prescription drugs defined as controlled substances, may be
 1764 transferred from health care facilities to pharmacies designated or approved by the
 1765 Department of ~~Human Resources~~ Health for the purpose of distributing such drugs to
 1766 residents of this state who are medically indigent persons.

1767 (b) The Georgia State Board of Pharmacy, ~~the Department of Human Resources~~, and the
 1768 Department of ~~Community~~ Health shall be authorized to develop and implement a pilot
 1769 program to determine the safest and most beneficial manner of implementing the program
 1770 prior to the state-wide implementation of the program required in subsection (a) of this
 1771 Code section.

1772 (c) The Georgia State Board of Pharmacy, in consultation with ~~the Department of Human~~
 1773 ~~Resources~~ and the Department of ~~Community~~ Health, shall develop and promulgate rules
 1774 and regulations to establish procedures necessary to implement the program and pilot
 1775 program, if applicable, provided for in this Code section. The rules and regulations shall
 1776 provide, at a minimum:

1777 (1) For an inclusionary formulary for the prescription drugs to be distributed pursuant
 1778 to the program;

1779 (2) For the protection of the privacy of the individual for whom a prescription drug was
1780 originally prescribed;

1781 (3) For the integrity and safe storage and safe transfer of the prescription drugs, which
1782 may include, but shall not be limited to, limiting the drugs made available through the
1783 program to those that were originally dispensed by unit dose or an individually sealed
1784 dose and that remain in intact packaging; provided, however, that the rules and
1785 regulations shall authorize the use of any remaining prescription drugs;

1786 (4) For the tracking of and accountability for the prescription drugs; and

1787 (5) For other matters necessary for the implementation of the program.

1788 (d) The state-wide program required by this Code section shall be implemented no later
1789 than January 1, 2007, unless a pilot program is implemented pursuant to subsection (b) of
1790 this Code section, in which case state-wide implementation shall occur no later than July
1791 1, 2008."

1792 SECTION 1-24.

1793 Code Section 31-5-2 of the Official Code of Georgia Annotated, relating to hearings of the
1794 Department of Human Resources, is amended as follows:

1795 "31-5-2.

1796 (a) Hearings shall be required ~~with respect to~~ for any and all quasi-judicial actions and in
1797 any other proceeding required by this title or the Constitution of Georgia. All such
1798 hearings shall be conducted ~~as provided in this Code section~~ in accordance with Chapter
1799 13 of Title 50, the 'Georgia Administrative Procedure Act.'

1800 (b) ~~Where hearing is required or afforded, notice thereof as provided in this Code section~~
1801 ~~shall be given in person or by registered or certified mail or statutory overnight delivery~~
1802 ~~to all interested parties; provided, however, in proceedings where the number of interested~~
1803 ~~parties is so numerous as to make individual notice impracticable, notice shall be given by~~
1804 ~~publication or by such other means reasonably calculated to afford actual notice as may be~~
1805 ~~prescribed by the agency or person conducting such hearing. All notices shall state (1) the~~
1806 ~~time and place of hearing and nature thereof and (2) the matters of fact and law asserted~~
1807 ~~and must be given at least five days before the day set for hearing unless the agency~~
1808 ~~determines that an imminent threat to the public health exists which requires shorter notice.~~

1809 (c) ~~All interested parties at such hearings shall have, upon request, compulsory process as~~
1810 ~~provided in Code Section 31-5-4 and shall have the right to adduce evidence and conduct~~
1811 ~~cross-examination of all adverse witnesses. Any member of the department or county~~
1812 ~~boards of health, as the case may be, their authorized officials or agents, or any attorney~~
1813 ~~at law may administer oaths to all witnesses. No witness shall be abused while under~~

1814 ~~examination or required to incriminate himself. Where possible, all evidence and~~
 1815 ~~proceedings shall be reported.~~

1816 ~~(d) The department is authorized and empowered to employ and appoint hearing~~
 1817 ~~examiners to conduct hearings, issue compulsory process, administer oaths, and submit~~
 1818 ~~their findings and recommendations to the appointing agency; provided, however, that any~~
 1819 ~~such examiner shall be a member in good standing of the State Bar of Georgia. A county~~
 1820 ~~board of health is authorized and empowered to direct its director or the director's~~
 1821 ~~appointee to conduct hearings, issue compulsory process, administer oaths, and submit his~~
 1822 ~~findings and recommendations to the county board of health. In both of such cases, the~~
 1823 ~~examiner and director or the director's appointee shall make the report available to all~~
 1824 ~~interested parties, and such parties are permitted to file written exception thereto prior to~~
 1825 ~~final decision thereon."~~

1826 **SECTION 1-25.**

1827 Code Section 31-6-21.1 of the Official Code of Georgia Annotated, relating to procedures
 1828 for rule making by the Department of Community Health, is amended by adding a new
 1829 subsection to the end of the Code section to read as follows:

1830 "(j) This Code section shall apply only to rules adopted pursuant to this chapter."

1831 **SECTION 1-26.**

1832 Code Section 31-6-40 of the Official Code of Georgia Annotated, relating to a certificate of
 1833 need required for new institutional health services, is amended by revising paragraph (1) of
 1834 subsection (c) as follows:

1835 "(c)(1) Any person who had a valid exemption granted or approved by the former Health
 1836 Planning Agency or the former Department of Community Health (now known as the
 1837 Department of Health) prior to July 1, 2008, shall not be required to obtain a certificate of
 1838 need in order to continue to offer those previously offered services."

1839 **SECTION 1-27.**

1840 Code Section 31-6-48 of the Official Code of Georgia Annotated, relating to the abolishment
 1841 of prior entities and the transfer of contractual obligations, is amended as follows:

1842 "31-6-48.

1843 The State Health Planning and Development Agency, the State-wide Health Coordinating
 1844 Council, and the State Health Planning Review Board existing immediately prior to July
 1845 1, 1983, are abolished, and their respective successors on and after July 1, 1983, shall be
 1846 the Health Planning Agency, the Health Policy Council, and the Health Planning Review
 1847 Board, as established in this chapter, except that on and after July 1, 1991, the Health

1848 Strategies Council shall be the successor to the Health Policy Council, and except that on
 1849 and after July 1, 1999, the Department of Community Health (now known as the
 1850 Department of Health) shall be the successor to the Health Planning Agency, and except
 1851 that on and after July 1, 2008, the Board of Community Health (now known as the State
 1852 Board of Health) shall be the successor to the duties of the Health Strategies Council with
 1853 respect to adoption of the state health plan, and except that on June 30, 2008, the Health
 1854 Planning Review Board is abolished and the terms of all members on such board on such
 1855 date shall automatically terminate and the Certificate of Need Appeal Panel shall be the
 1856 successor to the duties of the Health Planning Review Board on such date. For purposes
 1857 of any existing contract with the federal government, or federal law referring to such
 1858 abolished agency, council, or board, the successor department, council, or board
 1859 established in this chapter or in Chapter 5A 2 of this title shall be deemed to be the
 1860 abolished agency, council, or board and shall succeed to the abolished agency's, council's,
 1861 or board's functions. The State Health Planning and Development Commission is
 1862 abolished."

1863 SECTION 1-28.

1864 Code Section 31-6-49 of the Official Code of Georgia Annotated, relating to transitional
 1865 provisions with respect to the certificate of need program, is amended as follows:

1866 "31-6-49.

1867 All matters transferred to the Health Planning Agency by the previously existing provisions
 1868 of this Code section and that are in effect on June 30, 1999, shall automatically be
 1869 transferred to the Department of Community Health (now known as the Department of
 1870 Health) on July 1, 1999. All matters of the Health Planning Review Board that are pending
 1871 on June 30, 2008, shall automatically be transferred to the Certificate of Need Appeal Panel
 1872 established pursuant to Code Section 31-6-44."

1873 SECTION 1-29.

1874 Code Section 31-7-2.2 of the Official Code of Georgia Annotated, relating to determination
 1875 that patients or residents in an institution, community living arrangement, or treatment
 1876 program are in danger, is amended as follows:

1877 "31-7-2.2.

1878 (a)(1) The commissioner may order the emergency relocation of patients or residents
 1879 from an institution subject to licensure under this chapter, ~~a community living~~
 1880 ~~arrangement subject to licensure under paragraph (16) of subsection (b) and subsection~~
 1881 ~~(c) of Code Section 37-1-20~~, or a drug abuse treatment and education program subject to

1882 licensure under Chapter 5 of Title 26 when the commissioner has determined that the
 1883 patients or residents are subject to an imminent and substantial danger.

1884 (2) When an order is issued under this subsection, the commissioner shall provide for:

1885 (A) Notice to the patient or resident, his or her next of kin or guardian, and his or her
 1886 physician of the emergency relocation and the reasons therefor;

1887 (B) Relocation to the nearest appropriate institution, ~~community living arrangement,~~
 1888 or drug abuse treatment and education program; and

1889 (C) Other protection designed to ensure the welfare and, when possible, the desires of
 1890 the patient or resident.

1891 (b)(1) The commissioner may order the emergency placement of a monitor in an
 1892 institution subject to licensure under this chapter, ~~a community living arrangement~~
 1893 ~~subject to licensure under paragraph (16) of subsection (b) and subsection (c) of Code~~
 1894 ~~Section 37-1-20,~~ or a drug abuse treatment and education program subject to licensure
 1895 under Chapter 5 of Title 26 when one or more of the following conditions are present:

1896 (A) The institution, ~~community living arrangement,~~ or drug abuse treatment and
 1897 education program is operating without a permit or a license;

1898 (B) The department has denied application for a permit or a license or has initiated
 1899 action to revoke the existing permit or license of the institution, ~~community living~~
 1900 ~~arrangement,~~ or drug abuse treatment and education program;

1901 (C) The institution, ~~community living arrangement,~~ or drug abuse treatment and
 1902 education program is closing or plans to close and adequate arrangements for relocation
 1903 of the patients or residents have not been made at least 30 days before the date of
 1904 closure; or

1905 (D) The health, safety, security, rights, or welfare of the patients or residents cannot
 1906 be adequately assured by the institution, ~~community living arrangement,~~ or drug abuse
 1907 treatment and education program.

1908 (2) A monitor may be placed, pursuant to this subsection, in an institution, ~~community~~
 1909 ~~living arrangement,~~ or drug abuse treatment and education program for no more than ten
 1910 days, during which time the monitor shall observe conditions and compliance with any
 1911 recommended remedial action of the department by the institution, ~~community living~~
 1912 ~~arrangement,~~ or drug abuse treatment and education program. The monitor shall report
 1913 to the department. The monitor shall not assume any administrative responsibility within
 1914 the institution, ~~community living arrangement,~~ or drug abuse treatment and education
 1915 program nor shall the monitor be liable for any actions of the institution, ~~community~~
 1916 ~~living arrangement,~~ or drug abuse treatment and education program. The costs of placing
 1917 a monitor in an institution, ~~community living arrangement,~~ or drug abuse treatment and
 1918 education program shall be paid by the institution, ~~community living arrangement,~~ or

1919 drug abuse treatment and education program unless the order placing the monitor is
1920 determined to be invalid in a contested case proceeding under subsection (d) of this Code
1921 section, in which event the costs shall be paid by the state.

1922 (c)(1) The commissioner may order the emergency prohibition of admissions to an
1923 institution subject to licensure under this chapter, ~~a community living arrangement~~
1924 ~~subject to licensure under paragraph (16) of subsection (b) and subsection (c) of Code~~
1925 ~~Section 37-1-20~~, or program subject to licensure under Chapter 5 of Title 26 when an
1926 such institution, ~~community living arrangement~~, or drug abuse treatment and education
1927 program has failed to correct a violation of departmental permit rules or regulations
1928 within a reasonable period of time, as specified in the department's corrective order, and
1929 the violation:

1930 (A) Could jeopardize the health and safety of the residents or patients in the institution;
1931 ~~community living arrangement~~, or drug abuse treatment and education program if
1932 allowed to remain uncorrected; or

1933 (B) Is a repeat violation over a 12 month period, which is intentional or due to gross
1934 negligence.

1935 (2) Admission to an institution, ~~community living arrangement~~, or drug abuse treatment
1936 and education program may be suspended until the violation has been corrected or until
1937 the department has determined that the institution, ~~community living arrangement~~, or
1938 drug abuse treatment and education program has undertaken the action necessary to effect
1939 correction of the violation.

1940 (d) The commissioner may issue emergency orders pursuant to this Code section only if
1941 authorized by rules and regulations of the department. Unless otherwise provided in the
1942 order, an emergency order shall become effective immediately. The department shall hold
1943 a preliminary hearing within ten days following a request therefor by any institution;
1944 ~~community living arrangement~~, or drug abuse treatment and education program affected
1945 by an emergency order. If at the preliminary hearing the order is determined by the
1946 department to be invalid, that order shall thereupon become void and of no effect. If at the
1947 preliminary hearing the order is determined by the department to be valid, that
1948 determination shall constitute a contested case under Chapter 13 of Title 50, the 'Georgia
1949 Administrative Procedure Act,' and that order shall remain in effect until determined
1950 invalid in a proceeding regarding the contested case or until rescinded by the
1951 commissioner, whichever is earlier. For purposes of this subsection, an emergency order
1952 is valid only if the order is authorized to be issued under this Code section and rules and
1953 regulations relating thereto.

1954 (e) The powers provided by this Code section are cumulative of all other powers of the
1955 department, board, and commissioner."

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SECTION 1-30.

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

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

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SECTION 1-31.

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

"31-7-17.

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

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

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

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

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

SECTION 1-32.

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

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

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

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

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

SECTION 1-33.

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

"31-7-159.

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

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

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

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

2064 to the department shall retain all existing rights under the State Merit System of Personnel
 2065 Administration. Retirement rights of such transferred employees existing under the
 2066 Employees' Retirement System of Georgia or other public retirement systems on June 30,
 2067 2009, shall not be impaired or interrupted by the transfer of such employees and
 2068 membership in any such retirement system shall continue in the same status possessed by
 2069 the transferred employees on June 30, 2009. Accrued annual and sick leave possessed by
 2070 said employees on June 30, 2009, shall be retained by said employees as employees of the
 2071 Department of ~~Community~~ Health."

2072 SECTION 1-34.

2073 Code Section 31-7-265 of the Official Code of Georgia Annotated, relating to facility
 2074 licensing and employee records checks for personal care homes transferred to Department
 2075 of Community Health, is amended as follows:

2076 "31-7-265.

2077 (a) Effective July 1, 2009, all matters relating to facility licensing and employee records
 2078 checks for personal care homes pursuant to this article shall be transferred from the
 2079 Department of Human Resources (now known as the Department of Human Services) to
 2080 the Department of ~~Community~~ Health.

2081 (b) The Department of ~~Community~~ Health shall succeed to all rules, regulations, policies,
 2082 procedures, and administrative orders of the Department of Human Resources that are in
 2083 effect on June 30, 2009, or scheduled to go into effect on or after July 1, 2009, and which
 2084 relate to the functions transferred to the Department of ~~Community~~ Health pursuant to this
 2085 Code section and shall further succeed to any rights, privileges, entitlements, obligations,
 2086 and duties of the Department of Human Resources that are in effect on June 30, 2009,
 2087 which relate to the functions transferred to the Department of ~~Community~~ Health pursuant
 2088 to this Code section. Such rules, regulations, policies, procedures, and administrative
 2089 orders shall remain in effect until amended, repealed, superseded, or nullified by the
 2090 Department of ~~Community~~ Health by proper authority or as otherwise provided by law.

2091 (c) The rights, privileges, entitlements, and duties of parties to contracts, leases,
 2092 agreements, and other transactions entered into before July 1, 2009, by the Department of
 2093 Human Resources which relate to the functions transferred to the Department of
 2094 ~~Community~~ Health pursuant to this Code section shall continue to exist; and none of these
 2095 rights, privileges, entitlements, and duties are impaired or diminished by reason of the
 2096 transfer of the functions to the Department of ~~Community~~ Health. In all such instances,
 2097 the Department of ~~Community~~ Health shall be substituted for the Department of Human
 2098 Resources, and the Department of ~~Community~~ Health shall succeed to the rights and duties
 2099 under such contracts, leases, agreements, and other transactions.

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

SECTION 1-35.

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

"31-7-308.

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

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

2136 (c) The rights, privileges, entitlements, and duties of parties to contracts, leases,
 2137 agreements, and other transactions entered into before July 1, 2009, by the Department of
 2138 Human Resources which relate to the functions transferred to the Department of
 2139 ~~Community~~ Health pursuant to this Code section shall continue to exist; and none of these
 2140 rights, privileges, entitlements, and duties are impaired or diminished by reason of the
 2141 transfer of the functions to the Department of ~~Community~~ Health. In all such instances,
 2142 the Department of ~~Community~~ Health shall be substituted for the Department of Human
 2143 Resources, and the Department of ~~Community~~ Health shall succeed to the rights and duties
 2144 under such contracts, leases, agreements, and other transactions.

2145 (d) All persons employed by the Department of Human Resources in capacities which
 2146 relate to the functions transferred to the Department of ~~Community~~ Health pursuant to this
 2147 Code section on June 30, 2009, shall, on July 1, 2009, become employees of the
 2148 Department of ~~Community~~ Health in similar capacities, as determined by the commissioner
 2149 of ~~community~~ health. Such employees shall be subject to the employment practices and
 2150 policies of the Department of ~~Community~~ Health on and after July 1, 2009, but the
 2151 compensation and benefits of such transferred employees shall not be reduced as a result
 2152 of such transfer. Employees who are subject to the rules of the State Personnel Board and
 2153 thereby under the State Merit System of Personnel Administration and who are transferred
 2154 to the department shall retain all existing rights under the State Merit System of Personnel
 2155 Administration. Retirement rights of such transferred employees existing under the
 2156 Employees' Retirement System of Georgia or other public retirement systems on June 30,
 2157 2009, shall not be impaired or interrupted by the transfer of such employees and
 2158 membership in any such retirement system shall continue in the same status possessed by
 2159 the transferred employees on June 30, 2009. Accrued annual and sick leave possessed by
 2160 said employees on June 30, 2009, shall be retained by said employees as employees of the
 2161 Department of ~~Community~~ Health."

2162 **SECTION 1-36.**

2163 Code Section 31-8-192 of the Official Code of Georgia Annotated, relating to definitions
 2164 relative to the "'Health Share' Volunteers in Medicine Act," is amended by revising
 2165 subparagraph (D) of paragraph (6) as follows:

2166 "(D) Any client or beneficiary of the department, ~~or~~ the Department of Human
 2167 ~~Resources~~ Services, or the Department of Behavioral Health who voluntarily chooses
 2168 to participate in a program offered or approved by the department, ~~or~~ the Department
 2169 of Human ~~Resources~~ Services, or the Department of Behavioral Health and meets the
 2170 program eligibility guidelines of the department, ~~or~~ the Department of Human
 2171 ~~Resources~~ Services, or the Department of Behavioral Health whose family income does

2172 not exceed 200 percent of the federal poverty level as defined annually by the federal
2173 Office of Management and Budget."

2174 **SECTION 1-37.**

2175 Code Section 31-11-2 of the Official Code of Georgia Annotated, relating to definitions
2176 relative to emergency medical services, is amended by revising paragraphs (3), (5), and (6.1)
2177 as follows:

2178 "(3) 'Ambulance provider' means an agency or company providing ambulance service
2179 which is operating under a valid license from the Emergency Health Section of the
2180 Division of Public Health of the Department of ~~Human Resources~~ Health."

2181 "(5) 'Cardiac technician' means a person who, having been trained and certified as an
2182 emergency medical technician and having completed additional training in advanced
2183 cardiac life support techniques in a training course approved by the department, is so
2184 certified by the Composite State Board of Medical Examiners prior to January 1, 2002,
2185 or the Department of Human Resources (now known as the Department of Health for
2186 these purposes) on and after January 1, 2002."

2187 "(6.1) 'Department' means the Department of ~~Human Resources~~ Health."

2188 **SECTION 1-38.**

2189 Code Section 31-11-50 of the Official Code of Georgia Annotated, relating to medical
2190 advisers relative to emergency medical services, is amended by revising subsection (a) as
2191 follows:

2192 "(a) To enhance the provision of emergency medical care, each ambulance service shall
2193 be required to have a medical adviser. The adviser shall be a physician licensed to practice
2194 medicine in this state and subject to approval by the medical consultant of the Emergency
2195 Health Section of the Division of ~~Physical Public~~ Public Health of the ~~Department of Human~~
2196 ~~Resources~~ Department of Health. Ambulance services unable to obtain a medical adviser,
2197 due to unavailability or refusal of physicians to act as medical advisers, may request the
2198 district health director or his or her designee to act as medical adviser until the services of
2199 a physician are available."

2200 **SECTION 1-39.**

2201 Code Section 31-11-53.1 of the Official Code of Georgia Annotated, relating to automated
2202 external defibrillator program, is amended by revising paragraph (1) of subsection (b) as
2203 follows:

2204 "(1) It is recommended that all persons who have access to or use an automated external
2205 defibrillator obtain appropriate training as set forth in the ~~Rules and Regulations~~ rules and

2206 regulations of the Department of ~~Health Human Resources Chapter 290-5-30~~. It is further
 2207 recommended that such training include at a minimum the successful completion of:

2208 (A) A nationally recognized health care provider/professional rescuer level
 2209 cardiopulmonary resuscitation course; and

2210 (B) A department established or approved course which includes demonstrated
 2211 proficiency in the use of an automated external defibrillator;"

2212 **SECTION 1-40.**

2213 Code Section 31-13-25 of the Official Code of Georgia Annotated, relating to rules,
 2214 regulations, agreements, and contracts formerly under the Department of Human Resources
 2215 with respect to radiation control, is amended as follows:

2216 "31-13-25.

2217 All rules and regulations, agreements, contracts, or other instruments which involve
 2218 radioactive materials heretofore under the jurisdiction of the Department of Human
 2219 Resources (now known as the Department of Health for these purposes) will, by operation
 2220 of law, be assumed by the Department of Natural Resources on April 4, 1990."

2221 **SECTION 1-41.**

2222 Code Section 31-15-4 of the Official Code of Georgia Annotated, relating to a cancer control
 2223 officer, is amended as follows:

2224 "31-15-4.

2225 The commissioner shall appoint a cancer control officer. The cancer control officer shall
 2226 be a physician licensed to practice medicine under Chapter 34 of Title 43 and ~~must~~ shall
 2227 be knowledgeable in the field of medicine covered by this chapter. He or she shall
 2228 administer the cancer program for the Division of ~~Physical~~ Public Health of the ~~Department~~
 2229 ~~of Human Resources~~ Department of Health in compliance with this chapter. He or she
 2230 shall be provided an office with clerical and administrative assistance to carry out this
 2231 program."

2232 **SECTION 1-42.**

2233 Code Section 33-21-20.1 of the Official Code of Georgia Annotated, relating to regulation
 2234 of health maintenance organizations by the commissioner of human resources, is amended
 2235 as follows:

2236 "33-21-20.1.

2237 On May 13, 2004, all health maintenance organizations meeting the requirements of
 2238 subsection (b.1) of Code Section 33-21-3 shall not be subject to regulation by the
 2239 commissioner of human resources (now known as the commissioner of health for these

2240 purposes). Upon the Commissioner of Insurance's determination that a health maintenance
 2241 organization no longer meets the requirements of subsection (b.1) of Code Section 33-21-3,
 2242 the Commissioner shall immediately notify the commissioner of ~~human resources~~ health;
 2243 and such health maintenance organization shall be subject to regulation by the
 2244 commissioner of ~~human resources~~ health until such time as it again meets the requirements
 2245 of subsection (b.1) of Code Section 33-21-3 as determined by the Commissioner of
 2246 Insurance."

2247 **SECTION 1-43.**

2248 Code Section 33-21A-10 of the Official Code of Georgia Annotated, relating to new and
 2249 renewal agreements with care management organizations and health care providers, is
 2250 amended as follows:

2251 "33-21A-10.

2252 (a) On and after May 13, 2008, the Department of Community Health, now known as the
 2253 Department of Health, shall include provisions in all new or renewal agreements with a
 2254 care management organization, which provisions require the care management organization
 2255 to comply with all provisions of this chapter.

2256 (b) On and after May 13, 2008, a care management organization shall not include any
 2257 provisions in new or renewal agreements with providers entered into pursuant to the
 2258 contract between the Department of Community Health (now known as the Department of
 2259 Health) and the care management organization, which provisions are inconsistent with the
 2260 provisions of this chapter."

2261 **SECTION 1-44.**

2262 Code Section 33-24-56.3 of the Official Code of Georgia Annotated, relating to colorectal
 2263 cancer screening and testing, is amended by revising paragraph (1) of subsection (a) as
 2264 follows:

2265 "(1) 'Health benefit policy' means any individual or group plan, policy, or contract for
 2266 health care services issued, delivered, issued for delivery, executed, or renewed by an
 2267 insurer in this state on or after July 1, 2002, including, but not limited to, those contracts
 2268 executed by the Department of ~~Community~~ Health pursuant to paragraph (1) of
 2269 subsection ~~(f)~~(d) of Code Section ~~31-5A-4~~ 31-2-4. The term 'health benefit policy' does
 2270 not include the following limited benefit insurance policies: accident only, CHAMPUS
 2271 supplement, dental, disability income, fixed indemnity, long-term care, medicare
 2272 supplement, specified disease, vision, and nonrenewable individual policies written for
 2273 a period of less than six months."

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SECTION 1-45.

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

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

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

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

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SECTION 1-46.

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

"33-45-3.

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

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SECTION 1-47.

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

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

2309 provide services to persons with disabilities, as defined in Chapter 2 of Title 37, or any
 2310 agency or department of the state or any of its political subdivisions, but only when
 2311 engaged in that practice as an employee of such an agency or department.

2312 (B) Persons who engage in the practice of social work as employees of any community
 2313 service board or similar entity created by general law to provide services to persons with
 2314 disabilities, as defined in Chapter 2 of Title 37, or any agency or department of the state
 2315 or any of its political subdivisions, but only when engaged in that practice as employees
 2316 of such community service board or similar entity, agency, or department, and persons or
 2317 entities which contract to provide social work services with any community service board
 2318 or similar entity or any agency or department of the state or any of its political
 2319 subdivisions, but such contracting persons and entities shall only be exempt under this
 2320 subparagraph when engaged in providing social work services pursuant to those contracts
 2321 and shall only be exempt until January 1, 1996.

2322 (C) Persons who engage in the practice of professional counseling as employees of
 2323 privately owned correctional facilities, the Department of Corrections, Department of
 2324 ~~Human Resources~~ Health, Department of Behavioral Health, Department of Human
 2325 Services, any county board of health, or any community service board or similar entity
 2326 created by general law to provide services to persons with disabilities, as defined in
 2327 Chapter 2 of Title 37, but only when engaged in that practice as employees of such
 2328 privately owned correctional facility, department, board, or entity and persons or entities
 2329 which contract to provide professional counseling services with such department or county
 2330 board of health, but such contracting persons and entities shall only be exempt under this
 2331 subparagraph when engaged in providing professional counseling services pursuant to
 2332 those contracts and shall only be exempt until January 1, 1996;"

2333 "(12) Persons engaged in the practice of a specialty as an employee of the Division of
 2334 Family and Children Services of the Department of ~~Human Resources~~ Services but only
 2335 when engaged in such practice as an employee of that division;"

2336 SECTION 1-48.

2337 Code Section 43-27-2 of the Official Code of Georgia Annotated, relating to the creation of
 2338 the State Board of Nursing Home Administrators, is amended as follows:

2339 "43-27-2.

2340 (a) There is created the State Board of Nursing Home Administrators, which shall consist
 2341 of 13 members, none of whom may be employees of the United States government or of
 2342 this state, and the commissioner of ~~human resources~~ services or his or her designee, who
 2343 shall serve as ex officio member of the board, and the commissioner of ~~community~~ health

2344 or his or her designee, who shall serve as ex officio member of the board. The members
 2345 of the board shall be appointed by the Governor and confirmed by the Senate, as follows:

2346 (1) One member who is a licensed medical doctor in this state and who is not a nursing
 2347 home administrator or pecuniarily interested in any nursing home;

2348 (2) One member who is a registered nurse in this state and who is not a nursing home
 2349 administrator or pecuniarily interested in any nursing home;

2350 (3) One member who is an educator with a graduate degree and specializing in the field
 2351 of gerontology and who is not a nursing home administrator or pecuniarily interested in
 2352 any nursing home;

2353 (4) Three members of the public at large who are not nursing home administrators or
 2354 pecuniarily interested in any nursing home or have any connection with the nursing home
 2355 industry whatsoever. Two of these three ~~public-at-large~~ public, at-large positions shall
 2356 be appointed from a list of three persons for each of these two positions submitted by the
 2357 State Board of Human Resources Health. The Governor is vested with complete
 2358 discretion in appointing the third member for one of these three ~~public-at-large~~ public,
 2359 at-large positions;

2360 (5) One member who is a hospital administrator in this state, who is the holder of a
 2361 master's degree in hospital administration, and who is not a nursing home administrator
 2362 or pecuniarily interested in any nursing home; and

2363 (6) Six members, at least one of whom shall represent nonproprietary nursing homes,
 2364 who are licensed nursing home administrators in this state.

2365 (b) The term for all members shall be three years from the date of appointment. A member
 2366 may be removed as provided in Code Section 43-1-17. All vacancies shall be filled by the
 2367 Governor for the unexpired terms in accordance with the requirements for appointment to
 2368 the vacant position."

2369 **SECTION 1-49.**

2370 Code Section 43-27-5 of the Official Code of Georgia Annotated, relating to general powers
 2371 and duties of the State Board of Nursing Home Administrators, is amended by revising
 2372 paragraph (4) of subsection (a) as follows:

2373 "(4) To initiate investigations for the purpose of discovering violations by a nursing home
 2374 administrator of the rules, regulations, or statutes of the Department of ~~Community~~ Health
 2375 or the Department of Human ~~Resources~~ Services, provided that the board shall investigate
 2376 those violations only after revocation, limitation, or restriction of participation of the
 2377 nursing home of which such individual is the administrator in the medical assistance
 2378 program or the license issued by the Department of ~~Human Resources~~ Health and make
 2379 written findings as to the causes of the alleged violations;"

SECTION 1-50.

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

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

SECTION 1-51.

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

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

2416 of health and remit the premium to the Department of Administrative Services. The
 2417 commissioner of human services shall establish a procedure to provide the Department of
 2418 Administrative Services all of the underwriting information required, including but not
 2419 limited to payroll data each quarter for the service centers, and shall collect the
 2420 unemployment premium from county departments of family and children services and
 2421 remit the premium to the Department of Administrative Services. The commissioner of
 2422 behavioral health shall establish a procedure to provide the Department of Administrative
 2423 Services all of the underwriting information required, including but not limited to payroll
 2424 data each quarter for the service centers, and shall collect the unemployment premium from
 2425 community service boards and remit the premium to the Department of Administrative
 2426 Services. All of the county departments of health, county departments of family and
 2427 children services, and community service boards shall participate in such unemployment
 2428 compensation benefit insurance program."

2429 **SECTION 1-52.**

2430 Code Section 46-4-154 of the Official Code of Georgia Annotated, relating to notice of
 2431 election, unbundling, rates, application requirements, and surcharge on interruptibles under
 2432 the "Natural Gas Competition and Deregulation Act," is amended by revising subsection (e)
 2433 as follows:

2434 "(e) The commission shall establish a surcharge on all customers receiving interruptible
 2435 service over the electing distribution company's distribution system sufficient to ensure that
 2436 such customers will pay an equitable share of the cost of the distribution system over which
 2437 such customers receive service. The commission is authorized to direct the electing
 2438 distribution company or the marketers to collect such surcharge directly from the
 2439 customers. Such surcharge shall be paid promptly upon receipt into the universal service
 2440 fund. This surcharge shall not be applied to any hospital that has a medicare and Medicaid
 2441 payor mix of at least 30 percent and has uncompensated writeoffs for the provision of
 2442 charity, indigent, and free health care services of not less than 5 percent of such hospital's
 2443 annual operating expenses based on the annual hospital surveys by ~~the Division of Health~~
 2444 ~~Planning~~ of the Department of Community Health. This surcharge shall not be applied to
 2445 any institution or property enumerated in Code Section 50-16-3, or administered or
 2446 regulated under authority granted by Code Section 42-2-5 or 49-4A-6 or by Chapter 9 of
 2447 Title 50."

SECTION 1-53.

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

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

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

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

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

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

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

2484 (6) May provide that the rate charged by the provider of medical assistance to the relative
 2485 or other person providing supplementation for a private room for a recipient shall not
 2486 exceed the difference between the maximum rate charged by the provider for a private
 2487 room to or for a private pay patient and the amount which the provider receives or will
 2488 receive from the department as reimbursement for otherwise providing for the recipient's
 2489 care in a semiprivate room."

2490 **SECTION 1-54.**

2491 Code Section 49-4-153 of the Official Code of Georgia Annotated, relating to administrative
 2492 hearings and appeals under Medicaid, is amended by revising subsection (d) as follows:

2493 "(d) All contested cases involving the imposition of a remedial or punitive measure against
 2494 a nursing facility by the Department of ~~Community~~ Health shall be conducted in the
 2495 manner provided for in subsection (l) of Code Section ~~31-2-6~~ 31-2-11, but only if such
 2496 remedial or punitive measure is based upon findings made by the Department of ~~Human~~
 2497 ~~Resources-Health~~ Health in its capacity as the state survey agency for the Georgia Medicaid
 2498 program."

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 2500 **SECTION 1-55.**

2501 Code Section 49-4-154 of the Official Code of Georgia Annotated, relating to powers and
 2502 duties retained by the Department of Human Resources with respect to Medicaid, is amended
 2503 as follows:

2504 "49-4-154.

2505 (a) The status, position, and rights of persons transferred from the Department of Human
 2506 Resources (now known as the Department of Health for these purposes) to the Department
 2507 of Medical Assistance pursuant to Ga. L. 1977, p. 384 shall not be affected by the transfer,
 2508 in and of itself; and such persons shall retain, inter alia, all rights of rank or grade; rights
 2509 to vacation, sick pay, and leave; rights under any retirement plan; and any other rights
 2510 under any law or administrative policy.

2511 (b) The Department of Human Resources (now known as the Department of Health for
 2512 these purposes) shall retain, in accordance with terms of the state plan, the functions, and
 2513 all tangible things and employees relating thereto, of:

2514 (1) Establishing and maintaining certain standards for certain institutions and agencies
 2515 seeking to become or remain providers and shall finally determine and certify whether
 2516 such institutions and agencies meet such standards;

2517 (2) Determining and certifying the eligibility of certain applicants for and recipients of
 2518 medical assistance; and

2519 (3) Prescribing regulations to require that applicants for medical assistance be given clear
 2520 and easily understandable notice that all books, papers, records, and memoranda of the
 2521 provider relating to the provision of medical assistance to the applicant will be made
 2522 available, upon request, to the commissioner of medical assistance or his representative
 2523 and that, by accepting medical assistance, the applicant thereby consents to the providing
 2524 of such books, papers, records, and memoranda to the commissioner of medical
 2525 assistance or his representative."

2526 **SECTION 1-56.**

2527 Code Section 49-4-155 of the Official Code of Georgia Annotated, relating to the
 2528 Department of Community Health succeeding to existing rules, regulations, policies,
 2529 procedures, and administrative orders with respect to Medicaid, is amended as follows:

2530 "49-4-155.

2531 The Department of Community Health (now known as the Department of Health) shall
 2532 succeed to all the rules, regulations, policies, procedures, and administrative orders of the
 2533 Department of Human Resources (now known as the Department of Human Services)
 2534 transferred to the Department of Medical Assistance pursuant to the previously existing
 2535 provisions of this Code section and that are in effect on June 30, 1999, and shall further
 2536 succeed to any rights, privileges, entitlements, obligations, and duties of the Department
 2537 of Human Resources (now known as the Department of Human Services) that are in effect
 2538 on June 30, 1999, to which the Department of Medical Assistance succeeded pursuant to
 2539 the previously existing provisions of Code Section 49-4-156."

2540 **SECTION 1-57.**

2541 Code Section 50-13-42 of the Official Code of Georgia Annotated, relating to applicability
 2542 of the "Georgia Administrative Procedure Act," is amended by revising subsection (a) as
 2543 follows:

2544 "(a) In addition to those agencies expressly exempted from the operation of this chapter
 2545 under paragraph (1) of Code Section 50-13-2, this article shall not apply to the
 2546 Commissioner of Agriculture, the Public Service Commission, the ~~Health Planning Review~~
 2547 ~~Board~~ Certificate of Need Appeal Panel, or the Department of ~~Community~~ Health, unless
 2548 specifically provided otherwise for certain programs or in relation to specific laws, or to
 2549 the Department of Labor with respect to unemployment insurance benefit hearings
 2550 conducted under the authority of Chapter 8 of Title 34. Such exclusion does not prohibit
 2551 such office or agencies from contracting with the Office of State Administrative Hearings
 2552 on a case-by-case basis."

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SECTION 1-58.

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Code Section 50-16-3 of the Official Code of Georgia Annotated, relating to property of state

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boards and departments, is amended by revising paragraph (2) as follows:

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"(2) The several institutions operated by the Department of Human ~~Resources~~ Services,

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the Department of Health, or the Department of Behavioral Health, including all real and

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personal property belonging to the several institutions or used in connection therewith,

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and all other property conveyed to ~~the~~ any such department for the use of any of the

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institutions or conveyed to any of the boards of trustees of which ~~the~~ such department is

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the successor or to any of the institutions under its control;"

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PART II

2563

Department of Human Services.

2564

SECTION 2-1.

2565

Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended

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by revising Chapters 1 and 2, relating to general provisions on social services and the

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Department of Human Resources, respectively, as follows:

2568

"CHAPTER 1

2569

49-1-1.

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As used in this title, the term:

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

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

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

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(4) 'County department' means a county or district department of family and children

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services.

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(5) 'County director' means the director of a county or district department of family and

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children services.

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

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49-1-2.

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All rules and regulations made by the Department of Human ~~Resources~~ Services shall be

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binding on the counties and shall be complied with by the respective county departments.

2582 49-1-3.

2583 ~~(a) Notwithstanding any other provisions of law, the Governor shall have the power by~~
2584 ~~executive order to direct and implement such internal organization of the Department of~~
2585 ~~Human Resources as he may determine necessary to improve the management and~~
2586 ~~administration of the functions vested in the department, including the power to allocate~~
2587 ~~within such organization the executive authority described in Code Section 49-2-1 with~~
2588 ~~respect to any or any grouping of the functions of the department. For these purposes, the~~
2589 ~~Governor shall have the power by executive order to redefine the department's substate~~
2590 ~~structure and to direct the establishment of district health and welfare organizations, as~~
2591 ~~respectively described and with such powers and duties as set forth in Code Sections~~
2592 ~~31-3-15 and 49-3-1. The district director of a health district shall be a licensed physician.~~
2593 ~~The district director and other executive staff of district health and welfare organizations~~
2594 ~~shall hereafter be appointed by the department, provided that the department shall not~~
2595 ~~appoint as a director of any such organization any person whose appointment is not~~
2596 ~~approved by a majority of the respective district board concerned in a meeting of such~~
2597 ~~board called for that purpose.~~

2598 ~~(b) Any other provisions of this Code section to the contrary notwithstanding, any such~~
2599 ~~reorganization plan shall provide for a county department of family and children services,~~
2600 ~~a county board of family and children services, and a county director of family and children~~
2601 ~~services in each county of this state. The county director shall be the executive officer of~~
2602 ~~the county department who shall be responsible for operations and personnel. In addition~~
2603 ~~to such other powers and authorities which may be delegated to county departments of~~
2604 ~~family and children services, each county board and director of family and children~~
2605 ~~services shall have the same powers, duties, and bond requirements as provided in Code~~
2606 ~~Sections 49-3-2 through 49-3-5.~~

2607 ~~(c) Notwithstanding any other provision of this Code section, the Governor shall not have~~
2608 ~~the power by executive order to abolish any county board.~~

2609 ~~(d) The Governor's power under this Code section shall expire on December 31, 1976, but~~
2610 ~~the organization accomplished by executive order hereunder shall continue until altered in~~
2611 ~~the manner provided by law. Reserved.~~

2612 49-1-4.

2613 No individual, supervisor, or member of the Board of Human Resources Services or the
2614 county or district boards of family and children services having to do with the
2615 administration of this title shall be authorized or permitted, directly or indirectly, to sell
2616 supplies or other items of any kind or character to any of the institutions to be benefited by
2617 this title.

2618 49-1-5.

2619 (a) In order that the public welfare laws of this state may be better enforced, the Governor
2620 is authorized and empowered to suspend any member of any county board, any county
2621 director, or any employee or official of the department whenever he or she shall find that
2622 good cause for such suspension exists. Such suspension shall be by executive order of the
2623 Governor, which shall state the reason therefor. A copy of such order of suspension shall
2624 be sent to the person so suspended within five days after it is issued, by registered or
2625 certified mail or statutory overnight delivery, return receipt requested, together with a
2626 notice from the Governor or his or her executive secretary that the suspended person may
2627 be heard before the Governor at such time as may be stated in the notice, which hearing
2628 shall be not less than ten nor more than 20 days from the date of the notice. Upon such
2629 hearing, if the Governor shall find that good cause for the removal of the person so
2630 suspended exists, he or she is authorized and empowered to remove such member of any
2631 county board, any county director, or any employee or official in the department;
2632 whereupon, such person's tenure of office or employment shall terminate, subject to the
2633 right of appeal granted to any employee under the State Merit System of Personnel
2634 Administration by Chapter 20 of Title 45, and the vacancy shall be filled as provided by
2635 law. If the Governor shall find that good cause for the removal of such person does not
2636 exist, he or she shall, by appropriate executive order, restore him or her to duty.

2637 (b) In addition to removal by the Governor as specified in subsection (a) of this Code
2638 section, the director of the Division of Family and Children Services may terminate the
2639 employment of any county director or district director subject to any right of appeal such
2640 director may have under the State Merit System of Personnel Administration by Chapter
2641 20 of Title 45, and the vacancy shall be filled as provided by law.

2642 49-1-6.

2643 (a) Any charitable or nonprofit corporation which has been granted a charter or articles of
2644 incorporation under the laws of this state may transfer all or a part of its assets to the
2645 department upon such terms as may be agreed upon between such corporation and the
2646 department, provided such corporation shall first have obtained authority to make such
2647 transfer in accordance with this Code section.

2648 (b) Any such corporation may apply for authority to make such transfer by filing its
2649 petition with the superior court of the county in which such corporation has its principal
2650 office. Such application shall set forth the assets which the corporation desires to transfer
2651 to the department and the terms upon which it desires to transfer these assets.

2652 (c) Such corporation, once a week for four weeks prior to the filing of such petition, shall
2653 publish notice in the newspaper of the county in which is located the principal office of the

2654 corporation, such newspaper being the newspaper in which notices of sheriff's sales are
 2655 advertised. The notice shall set forth the date, time, and place when such application will
 2656 be presented, the court to which it will be presented, and the assets which such corporation
 2657 desires to transfer to the department.

2658 (d) After a hearing, the court shall be authorized to grant the application and permit a
 2659 transfer of the assets of the applicant upon terms as set out in the application or modified
 2660 as the court may deem advisable, if the court considers this in the public interest; or the
 2661 court may deny the application if the court deems such denial to be in the public interest.
 2662 Where such corporation makes a transfer of all of its right, title, and interest in any of its
 2663 assets to the department and such transfer is made pursuant to the authority of the court
 2664 obtained in the manner provided for in this Code section, such transfer shall be
 2665 conclusively deemed to be a proper and legal transfer.

2666 (e) Should such corporation desire to transfer all of its assets to the department, the court
 2667 to which such application is presented may include in its order a provision that upon the
 2668 transfer by such corporation of all of its assets to the department and upon compliance with
 2669 Chapter 3 of Title 14, the charter or articles of incorporation of such corporation shall stand
 2670 surrendered and the corporation dissolved.

2671 (f) Nothing contained in this Code section shall be considered as authorizing the
 2672 department to accept a transfer of assets upon terms which would require the use of them
 2673 by the department in a manner not authorized by law.

2674 ~~49-1-7.~~

2675 ~~The department is authorized to purchase land or lands adjacent to or near lands now under~~
 2676 ~~the control of the department where, in the opinion of the department, the land is needed~~
 2677 ~~for the benefit of one of the institutions under its control and management, to pay for such~~
 2678 ~~land out of any funds which may be available for such purpose, and to take title to land so~~
 2679 ~~purchased in the name of the State of Georgia for the use of the department.~~

2680 ~~49-1-8.~~

2681 ~~(a) The department shall sell, to the best advantage, all surplus products of the Central~~
 2682 ~~State Hospital or other institutions under the control and supervision of the department and~~
 2683 ~~shall apply the proceeds thereof to the maintenance of the institution from which such~~
 2684 ~~surplus products are received. Should any surplus funds arise from this source, they shall~~
 2685 ~~be paid into the state treasury annually; and the department shall, at the end of each quarter,~~
 2686 ~~make a detailed report of all such transactions to the Governor.~~

2687 ~~(b) It is not the intention of this Code section to encourage competition in any way by the~~
 2688 ~~state, its institutions, agencies, departments or branches, or other subdivisions with the~~

2689 ~~individual, private farmers of this state, or others, in the production and sale of agricultural~~
 2690 ~~or industrial commodities or products in due course of commerce.~~

2691 ~~49-1-9~~ 49-1-7.

2692 (a) The General Assembly finds that it is in the best interest of the state to provide for
 2693 programs for home delivered meals, transportation services for the elderly, and preschool
 2694 children with special needs, including but not limited to disabled children, troubled
 2695 children, school readiness programs, and other similar needs for the benefit of the citizens
 2696 of Georgia. In addition to and as a supplement to traditional financing mechanisms for
 2697 such programs, it is the policy of this state to enable and encourage citizens voluntarily to
 2698 support such programs.

2699 (b) To support programs for home delivered meals, transportation services for the elderly,
 2700 and preschool children with special needs which programs have been established or
 2701 approved by the department or the Department of Health, the department may, without
 2702 limitation, promote and solicit voluntary contributions through the income tax return
 2703 contribution mechanism established in subsection (f) of this Code section, through offers
 2704 to match contributions by any person with moneys appropriated or contributed to the
 2705 department or the Department of Health for such programs, or through any fund raising or
 2706 other promotional techniques deemed appropriate by the department or the Department of
 2707 Health.

2708 (c) There is established a special fund to be known as the 'Home Delivered Meals,
 2709 Transportation Services for the Elderly, and Preschool Children with Special Needs Fund.'
 2710 This fund shall consist of all moneys contributed under subsection (b) of this Code section,
 2711 all moneys transferred to the department under subsection (f) of this Code section, and any
 2712 other moneys contributed to this fund or to the home delivered meals, transportation
 2713 services for the elderly, or preschool children with special needs programs of the
 2714 department or the Department of Health and all interest thereon. All balances in the fund
 2715 shall be deposited in an interest-bearing account identifying the fund and shall be carried
 2716 forward each year so that no part thereof may be deposited in the general treasury. The
 2717 fund shall be administered and the moneys held in the fund shall be expended by the
 2718 department through the ~~Office~~ Division of Aging Services in furtherance of home delivered
 2719 meals and transportation services to the elderly programs and by the ~~department~~
 2720 Department of Health in furtherance of preschool children with special needs programs.

2721 (d) Following the transmittal of contributions to the department for deposit in the fund
 2722 pursuant to subsection (f) of this Code section, the expenditure of moneys in the fund shall
 2723 be allocated as follows:

2724 (1) Fifty percent of the contributions to the fund shall be used for home delivered meals
2725 and transportation services to the elderly programs; and

2726 (2) Fifty percent of the contributions to the fund shall be transferred to the Department
2727 of Health to be used for preschool children with special needs programs.

2728 (e) Contributions to the fund shall be deemed supplemental to and shall in no way supplant
2729 funding that would otherwise be appropriated for these purposes. Contributions shall only
2730 be used for benefits and services and shall not be used for personnel or administrative
2731 positions. The department and the Department of Health shall each prepare, by February
2732 1 of each year, an accounting of the funds received and expended from the fund and a
2733 review and evaluation of all expended moneys of the fund. The ~~report~~ reports shall be
2734 made available to the Governor, the Lieutenant Governor, the Speaker of the House of
2735 Representatives, to the members of the Board of Human ~~Resources~~ Services, and, upon
2736 request, to members of the public.

2737 (f)(1) Unless an earlier date is deemed feasible and established by the Governor, each
2738 Georgia income tax return form for taxable years beginning on or after January 1, 1993,
2739 shall contain appropriate language, to be determined by the state revenue commissioner,
2740 offering the taxpayer the opportunity to contribute to the Home Delivered Meals,
2741 Transportation Services for the Elderly, and Preschool Children with Special Needs Fund
2742 established in subsection (c) of this Code section by either donating all or any part of any
2743 tax refund due, by authorizing a reduction in the refund check otherwise payable, or by
2744 contributing any amount over and above any amount of tax owed by adding that amount
2745 to the taxpayer's payment. The instructions accompanying the income tax return form
2746 shall contain a description of the purposes for which this fund was established and the
2747 intended use of moneys received from the contributions. Each taxpayer required to file
2748 a state income tax return who desires to contribute to such fund may designate such
2749 contribution as provided in this Code section on the appropriate income tax return form.

2750 (2) The Department of Revenue shall determine annually the total amount so contributed,
2751 shall withhold therefrom a reasonable amount for administering this voluntary
2752 contribution program, and shall transmit the balance to the department for deposit in the
2753 fund established in subsection (c) of this Code section; provided, however, the amount
2754 retained for administrative costs, including implementation costs, shall not exceed
2755 \$50,000.00 per year. If, in any tax year, the administrative costs of the Department of
2756 Revenue for collecting contributions pursuant to this Code section exceed the sum of
2757 such contributions, the administrative costs which the Department of Revenue is
2758 authorized to withhold from such contributions shall not exceed the sum of such
2759 contributions.

CHAPTER 2

ARTICLE 1

2762 49-2-1.

2763 (a) There is created a Department of Human Resources Services. The powers, functions,
 2764 and duties of the Department of Human Resources as they existed on June 30, 2009, except
 2765 for those relating to the Division of Mental Health, Developmental Disabilities, and
 2766 Addictive Diseases, the Division of Public Health, and the Office of Regulatory Services,
 2767 unless specifically transferred or reassigned to the Department of Health or the Department
 2768 of Behavioral Health, are transferred to the Department of Human Services effective July
 2769 1, 2009, and the Department of Human Resources shall be reconstituted as the Department
 2770 of Human Services effective July 1, 2009.

2771 (b) There is also created the position of commissioner of human resources services. The
 2772 commissioner shall be the chief administrative officer of the department and be both
 2773 appointed and removed by the board, subject to the approval of the Governor. Subject to
 2774 the general policy established by the board, the commissioner shall supervise, direct,
 2775 account for, organize, plan, administer, and execute the functions vested in the department.

2776 49-2-2.

2777 (a) There is created a Board of Human Resources Services, as of July 1, 2009, which shall
 2778 establish the general policy to be followed by the Department of Human Resources
 2779 Services created by Code Section 49-2-1. The powers, functions, and duties of the Board
 2780 of Human Resources as they existed on June 30, 2009, except for those relating to the
 2781 Division of Mental Health, Developmental Disabilities, and Addictive Diseases, the
 2782 Division of Public Health, and the Office of Regulatory Services, unless specifically
 2783 transferred or reassigned to the Department of Health or the Department of Behavioral
 2784 Health, are transferred to the Board of Human Services effective July 1, 2009, and the
 2785 Board of Human Resources as it existed on June 30, 2009, shall be abolished effective July
 2786 1, 2009. The board shall consist of one member from each congressional district in the
 2787 state and four at-large nine members appointed by the Governor and confirmed by the
 2788 Senate. For this purpose, the congressional districts used shall be those specified in Code
 2789 Section 21-1-2, as amended by Act No. 2EX11 of the second extraordinary 2001 session
 2790 of the General Assembly and as thereafter amended by law. Seven members of the board
 2791 shall be engaged professionally in rendering health services, and at least five of these seven
 2792 members shall be licensed to practice medicine pursuant to Chapter 34 of Title 43. In
 2793 appointing members to the board, the Governor shall take into account to the extent
 2794 practicable all areas and functions encompassed by the department.

2795 (b) The Governor shall designate the initial terms of the members of the board as follows:
2796 three members shall be appointed for one year; three members shall be appointed for two
2797 years; and three members shall be appointed for three years; ~~three members shall be~~
2798 appointed for four years; and the remaining members shall be appointed for five years.
2799 Thereafter, all succeeding appointments shall be for ~~five-year~~ three-year terms from the
2800 expiration of the previous term.

2801 (c) Vacancies in office shall be filled by appointment by the Governor in the same manner
2802 as the appointment to the position on the board which becomes vacant, and the appointment
2803 shall be submitted to the Senate for confirmation at the next session of the General
2804 Assembly. An appointment to fill a vacancy, other than by expiration of a term of office,
2805 shall be for the balance of the unexpired term.

2806 (d) Members of the board may be removed from office under the same conditions for
2807 removal from office of members of professional licensing boards provided in Code Section
2808 43-1-17.

2809 ~~(d)~~(e) There shall be a ~~chairman~~ chairperson of the board, elected by and from the
2810 membership of the board, who shall be the presiding officer of the board.

2811 ~~(e) Those members engaged in rendering health services shall comprise no more than~~
2812 ~~seven members of the total membership of the board.~~

2813 (f) The members of the board shall receive per diem and expenses as shall be set and
2814 approved by the Office of Planning and Budget and in conformance with rates and
2815 allowances set for members of other state boards.

2816 49-2-2.1.

2817 (a) The Department of Human Services shall succeed to all rules, regulations, policies,
2818 procedures, and administrative orders of the Department of Human Resources that are in
2819 effect on June 30, 2009, or scheduled to go into effect on or after July 1, 2009, and which
2820 relate to the functions transferred to the Department of Human Services pursuant to Code
2821 Section 49-2-1 and shall further succeed to any rights, privileges, entitlements, obligations,
2822 and duties of the Department of Human Resources that are in effect on June 30, 2009,
2823 which relate to the functions transferred to the Department of Human Services pursuant to
2824 Code Section 49-2-1. Such rules, regulations, policies, procedures, and administrative
2825 orders shall remain in effect until amended, repealed, superseded, or nullified by the
2826 Department of Human Services by proper authority or as otherwise provided by law.

2827 (b) The rights, privileges, entitlements, and duties of parties to contracts, leases,
2828 agreements, and other transactions entered into before July 1, 2009, by the Department of
2829 Human Resources which relate to the functions transferred to the Department of Human
2830 Services pursuant to Code Section 49-2-1 shall continue to exist; and none of these rights,

2831 privileges, entitlements, and duties are impaired or diminished by reason of the transfer of
2832 the functions to the Department of Human Services. In all such instances, the Department
2833 of Human Services shall be substituted for the Department of Human Resources, and the
2834 Department of Human Services shall succeed to the rights and duties under such contracts,
2835 leases, agreements, and other transactions.

2836 (c) All persons employed by the Department of Human Resources in capacities which
2837 relate to the functions transferred to the Department of Human Services pursuant to Code
2838 Section 49-2-1 on June 30, 2009, shall, on July 1, 2009, become employees of the
2839 Department of Human Services in similar capacities, as determined by the commissioner
2840 of human services. Such employees shall be subject to the employment practices and
2841 policies of the Department of Human Services on and after July 1, 2009, but the
2842 compensation and benefits of such transferred employees shall not be reduced as a result
2843 of such transfer. Employees who are subject to the rules of the State Personnel Board and
2844 thereby under the State Merit System of Personnel Administration and who are transferred
2845 to the department shall retain all existing rights under the State Merit System of Personnel
2846 Administration. Retirement rights of such transferred employees existing under the
2847 Employees' Retirement System of Georgia or other public retirement systems on June 30,
2848 2009, shall not be impaired or interrupted by the transfer of such employees and
2849 membership in any such retirement system shall continue in the same status possessed by
2850 the transferred employees on June 30, 2009. Accrued annual and sick leave possessed by
2851 said employees on June 30, 2009, shall be retained by said employees as employees of the
2852 Department of Human Services.

2853 (d) On July 1, 2009, the Department of Human Services shall receive custody of the state
2854 owned real property in the custody of the Department of Human Resources on June 30,
2855 2009, and which pertains to the functions transferred to the Department of Human Services
2856 pursuant to Code Section 49-2-1.

2857 49-2-3.

2858 (a) ~~Reserved.~~

2859 (b) The policy-making functions of the State Board for Children and Youth, contained in
2860 Ga. L. 1963, p. 81, are vested in the Board of Human ~~Resources~~ Services.

2861 (c)(b) The policy-making functions of the Commission on Aging, created in Ga. L. 1962,
2862 p. 604, are vested in the Board of Human ~~Resources~~ Services.

2863 49-2-4.

2864 There shall be created in the department such divisions as may be found necessary for its
2865 effective operation. The commissioner shall have the power to allocate and reallocate
2866 functions among the divisions within the department.

2867 49-2-5.

2868 The department is declared to be an institution of the state for which the powers of taxation
2869 over the whole state may be exercised, and the department is empowered and authorized
2870 to administer, expend, and disburse funds appropriated to it and allocated to it by the
2871 General Assembly, the respective counties of the state, and the United States, through its
2872 appropriate agencies and instrumentalities for the purpose of distributing old-age benefits
2873 and all other benefits as provided in this title.

2874 49-2-6.

2875 (a) The department shall administer or supervise all county departments of the state as
2876 provided in Chapter 3 of this title.

2877 (b) The department shall:

2878 (1) Administer or supervise:

2879 (A) All categories of public assistance established under Code Section 49-4-3;

2880 (B) The operation of state charitable and eleemosynary institutions;

2881 (C) Agencies and institutions caring for dependent or mentally or physically disabled
2882 or aged adults; and

2883 (D) Such other welfare activities or services as may be vested in it;

2884 (2) ~~Cooperate in the supervision of all correctional activities, including the operation of~~
2885 ~~all the penal and correctional institutions of the state, together with parole, supervising~~
2886 ~~of probation services, segregation of first offenders, and the inspection of local jails;~~

2887 ~~(3)~~ Provide services to county governments, including the organization and supervision
2888 of county departments for the effective administration of welfare functions and the
2889 compilation of statistics and necessary information relative to public welfare problems
2890 throughout the state;

2891 ~~(4)~~(3) Prescribe qualifications and salary standards for welfare personnel in state and
2892 county departments, subject to Chapter 20 of Title 45;

2893 ~~(5)~~(4) Assist other state and federal departments, agencies, and institutions, when so
2894 requested, by performing services in conformity with the purposes of this title;

2895 ~~(6)~~(5) Act as the agent of the federal government in welfare matters of mutual concern
2896 in conformity with this title and the administration of any federal funds granted to the
2897 state to aid in the furtherance of any functions of the department;

2898 ~~(7)~~(6) Under rules and regulations prescribed by the board, designate county and district
2899 departments to serve as agents in the performance of all state welfare activities in the
2900 counties or districts;

2901 ~~(8)~~(7) Have the right to designate private institutions as state institutions; to contract with
2902 such private institutions for such activities, in carrying out this title, as the department
2903 may deem necessary from time to time; and to exercise such supervision and cooperation
2904 in the operation of such designated private institutions as the department may deem
2905 necessary;

2906 ~~(9)~~(8) Have the right to accept and execute gifts or donations for welfare purposes, as
2907 may be prescribed by the donors thereof;

2908 ~~(10)~~(9) Have authority to delegate in whole or in part the operation of any institution or
2909 other activity of the department to any other appropriate department or agency of the
2910 state, county, or municipal governments; and to contract with and cooperate with such
2911 departments or subdivisions in any manner proper for carrying out the purposes of this
2912 title;

2913 ~~(11)~~ Make provision for meeting the cost of hospital care of persons eligible for public
2914 assistance to the extent that federal matching funds are available for such expenditures
2915 for hospital care. To accomplish this purpose, the department is authorized to pay from
2916 funds appropriated for the purposes of this title the amount required under this paragraph
2917 into a trust fund account which shall be available for disbursement for the cost of hospital
2918 care of public assistance recipients. The commissioner, subject to the approval of the
2919 Office of Planning and Budget, on the basis of the funds appropriated in any year, shall
2920 estimate the scope of hospital care available to public assistance recipients and the
2921 approximate per capita cost of such care. Monthly payments into the trust fund for
2922 hospital care shall be made on behalf of each public assistance recipient and such
2923 payments shall be deemed encumbered for assistance payable. Ledger accounts
2924 reflecting payments into and out of the hospital care fund shall be maintained for each of
2925 the categories of public assistance established under Code Section 49-4-3. The balance
2926 of state funds in such trust fund for the payment of hospital costs in an amount not to
2927 exceed the amount of federal funds held in the trust fund by the department available for
2928 expenditure under this paragraph shall be deemed encumbered and held in trust for the
2929 payment of the costs of hospital care and shall be rebudgeted for this purpose on each
2930 quarterly budget required under the laws governing the expenditure of state funds. The
2931 state auditor shall audit the funds in the trust fund established under this paragraph in the
2932 same manner that any other funds disbursed by the department are audited; and

2933 ~~(12)~~(10) Administer such programs and provide such services as may be appropriate and
2934 necessary to strengthen family life and help needy individuals attain the maximum

2935 economic and personal independence of which they are capable, including services to
2936 applicants and recipients of old-age assistance to help them attain self-care, provided that
2937 the costs incurred by the county departments in administering this Code section in
2938 conjunction with the public assistance programs administered by the department shall be
2939 deemed to be administrative expenses;

2940 (11) Classify and license community living arrangements in accordance with the rules
2941 and regulations promulgated by the department for the licensing and enforcement of
2942 licensing requirements for persons whose services are financially supported, in whole or
2943 in part, by funds authorized through the department. To be eligible for licensing as a
2944 community living arrangement, the residence and services provided must be integrated
2945 within the local community. All community living arrangements licensed by the
2946 department shall be subject to the provisions of Code Sections 49-2-17 and 49-2-18. No
2947 person, business entity, corporation, or association, whether operated for profit or not for
2948 profit, may operate a community living arrangement without first obtaining a license or
2949 provisional license from the department. A license issued pursuant to this paragraph is
2950 not assignable or transferable. As used in this paragraph, the term 'community living
2951 arrangement' means any residence, whether operated for profit or not, which undertakes
2952 through its ownership or management to provide or arrange for the provision of housing,
2953 food, one or more personal services, supports, care, or treatment exclusively for two or
2954 more persons who are not related to the owner or administrator of the residence by blood
2955 or marriage; and

2956 (12) Classify host homes for persons whose services are financially supported, in whole
2957 or in part, by funds authorized through the department and provide guidelines for and
2958 oversight of host homes, which may include, but not be limited to, criteria to become a
2959 host home, requirements relating to physical plants and supports, placement procedures,
2960 and ongoing oversight requirements. A host home shall be occupied by the owner or
2961 lessee, who shall not be an employee of the same community provider which provides
2962 the host home services by contract with the department. The department shall approve
2963 and enter into agreements with community providers which, in turn, contract with host
2964 homes. The occupant owner or lessee shall not be the guardian of any person served or
2965 of their property nor the agent in such person's advance directive for health care. The
2966 placement determination for each person placed in a host home shall be made according
2967 to such person's choice, as well as the individual needs of such person in accordance with
2968 the requirements of Code Section 37-3-162, 37-4-122, or 37-7-162, as applicable to such
2969 person. As used in this paragraph, the term 'host home' means a private residence in a
2970 residential area in which the occupant owner or lessee provides housing and provides or
2971 arranges for the provision of food, one or more personal services, supports, care, or

2972 treatment exclusively for one or two persons who are not related to the occupant owner
 2973 or lessee by blood or marriage.

2974 49-2-7.

2975 (a) The functions, duties, and authority of the Board of Public Welfare, established by Ga.
 2976 L. 1919, p. 222, as amended, as transferred and vested in the Board of Control of
 2977 Eleemosynary Institutions by Ga. L. 1931, p. 7, Section 44A, are vested in the Department
 2978 of Human Resources Services.

2979 (b) The functions, duties, and authority of the Department of Family and Children
 2980 Services, created in Ga. L. 1937, p. 355, as amended, are vested in the Department of
 2981 Human Resources Services.

2982 (c) The functions of the State Board for Children and Youth, created in Ga. L. 1963, p. 81,
 2983 except for the policy-making functions transferred to the Board of Human Resources, are
 2984 vested in the Department of Human Resources Services.

2985 (d) ~~Reserved.~~

2986 (e) The functions, duties, and authority of the State Commission on Aging, created in Ga.
 2987 L. 1962, p. 602, except the policy-making functions transferred to the Board of Human
 2988 Resources Services, are vested in the Department of Human Resources Services.

2989 49-2-8.

2990 ~~The five members of the board who are licensed to practice medicine pursuant to Chapter~~
 2991 ~~34 of Title 43 shall pass upon and approve the professional qualifications of all physicians~~
 2992 ~~and medical doctors employed by the department. Reserved.~~

2993 49-2-9.

2994 In administering any funds appropriated or made available to the department for welfare
 2995 purposes, the department shall have the power:

2996 (1) To make use of all local processes to enforce the minimum standards prescribed
 2997 under or pursuant to the laws providing for grants-in-aid; and

2998 (2) To administer and disburse any and all funds which may be allocated by any
 2999 municipality of the state or private organization or society for such purposes as may be
 3000 designated by such municipality or other agency. The department may use a reasonable
 3001 percentage of such funds for administrative costs, not to exceed 10 percent of the total
 3002 sum administered.

3003 49-2-10.

3004 For the purpose of carrying out the duties and obligations of the department for
3005 performance of welfare services of the state, for administrative costs, for matching such
3006 federal funds as may be available for all of the aforesaid services, for the purpose of
3007 establishing an equalization fund to be used in assisting those counties which may be
3008 unable otherwise to bear their proportionate share of the expenses of administration and of
3009 dispensing the benefits provided for under this title, and for dispensing all of the benefits
3010 provided for under this title, the General Assembly shall make appropriations out of the
3011 general fund of the state or otherwise for the various and separate activities of the
3012 department. All funds appropriated or allocated to the department or to the county
3013 departments by the General Assembly, the fiscal authorities of the respective counties, and
3014 by the federal government through its appropriate agencies and instrumentalities are
3015 declared to be funds provided for a public purpose; and all appropriations provided for in
3016 this Code section and hereafter may be expended and distributed by the department for the
3017 purposes provided for under this title.

3018 49-2-11.

3019 (a) Notwithstanding any provision in this title to the contrary, particularly Articles 2, 3,
3020 and 5 of Chapter 4 of this title, nothing therein contained shall be construed to prevent the
3021 acceptance of more than 50 percent federal matching funds. The department may accept
3022 and disburse the maximum percentage of federal grant-in-aid funds made available to this
3023 state by the federal government under any formula of variable grants or other formula for
3024 the granting of federal grants-in-aid.

3025 (b) The department is authorized to comply with the requirements prescribed by Congress
3026 as conditions to federal grants.

3027 (c) To the end of empowering the department to comply with federal requirements and to
3028 effectuate the purposes of grant-in-aid welfare programs, the board is authorized to
3029 promulgate all necessary rules and regulations and the department is authorized to do all
3030 things necessary and proper for the securing of the maximum amount of such federal
3031 grants.

3032 (d) In the event that Congress appropriates funds for grants-in-aid to the state governments
3033 for the purpose of assisting them in the operation of general assistance programs, medical
3034 assistance programs, or any other welfare programs, the department is authorized to
3035 cooperate with the federal government in such programs, to accept funds from the federal
3036 government in the maximum amounts made available, to disburse them, and to comply
3037 with all requirements of the federal government necessary for the securing of such
3038 grant-in-aid funds.

3039 (e) Any state funds which are made available by appropriation to the department for
3040 matching federal funds shall be available to supply the state portion of expenditures for
3041 general assistance programs, medical assistance programs, or any other type welfare
3042 programs provided for by the federal government which benefit the citizens or residents
3043 of this state.

3044 (f) Notwithstanding subsections (a) through (e) of this Code section, the Department of
3045 ~~Community~~ Health shall be the single state agency for the administration of the state
3046 medical assistance plan.

3047 49-2-12.

3048 (a) All divisions and sections within the department shall make an inventory of all the
3049 various vehicles to which the department holds title and shall investigate their utilization
3050 patterns in order to establish and develop a consolidated and coordinated transportation
3051 plan for the various human services programs of the department, including, but not limited
3052 to, those programs relating to the aged and to the mentally and physically disabled.

3053 (b) Other departments and agencies of the state shall cooperate with the Department of
3054 ~~Human Resources~~ Services in mutually beneficial agreements regarding the establishment
3055 and development of a coordinated transportation plan involving various vehicles to which
3056 the state has title.

3057 (c) The plan required to be developed under this Code section shall identify the fully
3058 allocated costs of the transportation component of their services and take into consideration
3059 various limitations on the expenditure of federal funds which may arise in any consolidated
3060 or coordinated transportation system. No later than June 30, 1980, a preliminary
3061 transportation plan shall be submitted by the department to the Human Relations and Aging
3062 Committee of the House of Representatives and the Education and Youth, Aging, and
3063 ~~Human Ecology~~ Committee of the Senate, which plan shall be revised and submitted to
3064 such committees every two years thereafter.

3065 49-2-13.

3066 All divisions and sections within the department, in cooperation with the Department of
3067 Transportation, shall identify those areas of the state where the general transportation needs
3068 of the elderly and persons with disabilities are not and cannot be adequately served by bus
3069 service and community service centers furnishing transportation. In further cooperation
3070 with the Department of Transportation, the department shall identify alternatives for
3071 meeting the transportation needs of these persons and shall report to the committees
3072 specified in subsection (c) of Code Section 49-2-12 as required therein. Such alternative

3073 means to be considered for providing for the transportation needs of these persons should
 3074 include, but shall not be limited to:

- 3075 (1) Contract service resulting from competitive bidding by private sector bus operators
 3076 operating under Article 1 of Chapter 7 of Title 46;
 3077 (2) Contract service resulting from competitive bidding by taxi operators;
 3078 (3) Negotiated fee basis with municipal and area-wide transportation systems serving the
 3079 general public; or
 3080 (4) Any combination of ~~above~~ paragraphs (1) through (3) of this Code section.

3081 49-2-13.1.

3082 (a) The department may, when funds are available from the United States government for
 3083 such purposes, provide financial assistance with such funds, or such funds and state general
 3084 funds appropriated for these purposes, to private nonprofit corporations and associations
 3085 for the specific purpose of assisting them in providing transportation services meeting the
 3086 special needs of the elderly or persons with disabilities, or both, for whom the department
 3087 determines that the mass transportation services planned, designed, and carried out by local
 3088 public bodies, agencies, and authorities are unavailable, insufficient, or inappropriate.
 3089 Such financial assistance shall be subject to those terms, conditions, requirements, and
 3090 restrictions as the department determines to be necessary or appropriate in order to carry
 3091 out the purposes of this Code section.

3092 (b) In order to effectuate and enforce this Code section, the department is authorized to
 3093 promulgate necessary rules and regulations and to prescribe conditions and procedures in
 3094 order to assure compliance in carrying out the purposes of this Code section.

3095 49-2-14.

3096 (a) As used in this Code section, the term 'conviction data' means a record of a finding or
 3097 verdict of guilty or a plea of guilty or a plea of nolo contendere with regard to any crime,
 3098 regardless of whether an appeal of the conviction has been sought.

3099 (b) The department may receive from any law enforcement agency conviction data that is
 3100 relevant to a person whom the department, its contractors, or a district or county health
 3101 agency is considering as a final selectee for employment in a position the duties of which
 3102 involve direct care, treatment, custodial responsibilities, or any combination thereof for its
 3103 clients. The department may also receive conviction data which is relevant to a person
 3104 whom the department, its contractors, or a district or county health agency is considering
 3105 as a final selectee for employment in a position if, in the judgment of the employer, a final
 3106 employment decision regarding the selectee can only be made by a review of conviction
 3107 data in relation to the particular duties of the position and the security and safety of clients,

3108 the general public, or other employees. Further, the department or any licensed
3109 child-placing agency, designated by the department to assist it in preparing studies of
3110 homes in which children in its custody may be placed, may receive from any law
3111 enforcement agency conviction data that is relevant to any adult person who resides in a
3112 home where children in the custody of the department may be placed.

3113 (c) The department shall establish a uniform method of obtaining conviction data under
3114 subsection (a) of this Code section which shall be applicable to the department; and its
3115 contractors, ~~and any district or county health agency~~. Such uniform method shall require
3116 the submission to the Georgia Crime Information Center of ~~two complete sets of~~
3117 fingerprints and the records search fee in accordance with Code Section 35-3-35. Upon
3118 receipt thereof, the Georgia Crime Information Center shall promptly transmit ~~one set of~~
3119 fingerprints to the Federal Bureau of Investigation for a search of bureau records and an
3120 appropriate report and shall ~~retain the other set and~~ promptly conduct a search of its own
3121 records and records to which it has access. After receiving the fingerprints and fee, the
3122 Georgia Crime Information Center shall notify the department in writing of any derogatory
3123 finding, including, but not limited to, any conviction data regarding the fingerprint records
3124 check or if there is no such finding.

3125 (d) All conviction data received shall be for the exclusive purpose of making employment
3126 decisions or decisions concerning children in the custody of the department or who are the
3127 subjects of a child protective services referral, complaint, or investigation and shall be
3128 privileged and shall not be released or otherwise disclosed to any other person or agency
3129 ~~except to any person or agency with a legal right to inspect the employment, department,~~
3130 ~~or licensed child-placing agency file~~. Immediately following the employment decisions
3131 or upon receipt of the conviction data concerning any adult person who has contact with
3132 a child who is the subject of a child protective services referral, complaint, or investigation
3133 or who resides in a home where children in the custody of the department may be placed,
3134 all such conviction data collected by the department or the licensed child-placing agency
3135 shall be maintained by the department or child-placing agency pursuant to laws regarding
3136 and the rules or regulations of the Federal Bureau of Investigation and the Georgia Crime
3137 Information Center, as is applicable. Penalties for the unauthorized release or disclosure
3138 of any conviction data shall be as prescribed pursuant to laws regarding and rules or
3139 regulations of the Federal Bureau of Investigation and the Georgia Crime Information
3140 Center, as is applicable.

3141 (e) Notwithstanding the provisions of subsection (c) of this Code section, when a
3142 contractor to this department is a personal care home, the provisions of Code Sections
3143 31-7-250 through 31-7-264 shall apply.

3144 (f) The department may promulgate written rules and regulations to implement the
3145 provisions of this Code section.

3146 (g) The department may receive from any law enforcement agency criminal history
3147 information, including arrest and conviction data, and any and all other information which
3148 it may be provided pursuant to state or federal law which is relevant to any adult person
3149 who resides in a home where children in the custody of the department have been or may
3150 be placed or which is relevant to any adult person who resides in the home of or provides
3151 care to a child who is the subject of a child protective services referral, complaint, or
3152 investigation to the fullest extent permissible by federal and state law, including but not
3153 limited to Public Law 92-544. The department shall establish a uniform method of
3154 obtaining criminal history information under this subsection. Such method shall require
3155 the submission to the Georgia Crime Information Center of ~~two complete sets of fingerprint~~
3156 ~~cards~~ fingerprints together with any required records search fee in accordance with Code
3157 Section 35-3-35. Upon receipt thereof, the Georgia Crime Information Center shall
3158 promptly transmit ~~one set of~~ the fingerprints submitted by the department to the Federal
3159 Bureau of Investigation for a search of bureau records and an appropriate report and shall
3160 ~~retain the other set and~~ promptly conduct a search of its own records and records to which
3161 it has access. Such method shall also permit the submission of the names alone of such
3162 adult persons to the proper law enforcement agency when the department is considering
3163 placement of a child in exigent circumstances for a name based check of such adult
3164 person's criminal history information as maintained by the Georgia Crime Information
3165 Center and the Federal Bureau of Investigation. In such exigent circumstances, the
3166 department shall submit ~~two complete sets of fingerprint cards~~ fingerprints of those adult
3167 persons in the placement home, together with any required records search fee, to the
3168 Federal Bureau of Investigation within 15 calendar days of the date of the name based
3169 check on that person. ~~Fingerprint cards~~ The fingerprints shall be forwarded to the Federal
3170 Bureau of Investigation through the Georgia Crime Information Center in accordance with
3171 Code Section 35-3-35. Following the submission of such ~~fingerprint cards~~ fingerprints, the
3172 department may receive the criminal history information, including arrest and conviction
3173 data, relevant to such person. In the event that a child has been placed in exigent
3174 circumstances, a name based records search has been requested for any adult person of the
3175 placement household, and that adult refuses to provide fingerprints after being requested
3176 to do so by the department, the child shall be immediately removed from the placement
3177 household by the department, provided that the child is in the custody of the department.

3178 (h) The department shall be authorized to conduct a name or descriptor based check of any
3179 adult person's criminal history information, including arrest and conviction data, and other
3180 information from the Georgia Crime Information Center regarding any adult person who

3181 resides in a home where children in the custody of the department have been or may be
 3182 placed or which is relevant to any adult person who resides in the home of or provides care
 3183 to a child who is the subject of a child protective services referral, complaint, or
 3184 investigation without the consent of such adult person and without fingerprint comparison
 3185 to the fullest extent permissible by federal and state law.

3186 49-2-14.1.

3187 (a) As used in this Code section, the term:

3188 (1) 'Conviction' means a finding or verdict of guilty or a plea of guilty regardless of
 3189 whether an appeal of the conviction has been sought.

3190 (2) 'Crime' means commission of the following offenses:

3191 (A) A violation of Code Section 16-5-1, relating to murder and felony murder;

3192 (B) A violation of Code Section 16-5-21, relating to aggravated assault;

3193 (C) A violation of Code Section 16-5-24, relating to aggravated battery;

3194 (D) A violation of Code Section 16-5-70, relating to cruelty to children;

3195 (E) A violation of Code Section 16-5-100, relating to cruelty to a person 65 years of
 3196 age or older;

3197 (F) A violation of Code Section 16-6-1, relating to rape;

3198 (G) A violation of Code Section 16-6-2, relating to aggravated sodomy;

3199 (H) A violation of Code Section 16-6-4, relating to child molestation;

3200 (I) A violation of Code Section 16-6-5, relating to enticing a child for indecent
 3201 purposes;

3202 (J) A violation of Code Section 16-6-5.1, relating to sexual assault against persons in
 3203 custody, detained persons, or patients in hospitals or other institutions;

3204 (K) A violation of Code Section 16-6-22.2, relating to aggravated sexual battery;

3205 (L) A violation of Code Section 16-8-41, relating to armed robbery;

3206 (M) A violation of Code Section 30-5-8, relating to abuse, neglect, or exploitation of
 3207 a disabled adult or elder person; or

3208 (N) Any other offense committed in another jurisdiction that, if committed in this state,
 3209 would be deemed to be a crime listed in this paragraph without regard to its designation
 3210 elsewhere.

3211 (3) 'Criminal record' means any of the following:

3212 (A) Conviction of a crime;

3213 (B) Arrest, charge, and sentencing for a crime where:

3214 (i) A plea of nolo contendere was entered to the charge;

3215 (ii) First offender treatment without adjudication of guilt pursuant to the charge was
 3216 granted; or

- 3217 (iii) Adjudication or sentence was otherwise withheld or not entered on the charge;
 3218 or
 3219 (C) Arrest and being charged for a crime if the charge is pending, unless the time for
 3220 prosecuting such crime has expired pursuant to Chapter 3 of Title 17.
- 3221 (4) 'Facility' means a:
- 3222 (A) ~~Personal care home required to be licensed or permitted under Code Section~~
 3223 ~~31-7-12;~~
 3224 ~~(B) Private home care provider required to be licensed under Article 13 of Chapter 7~~
 3225 ~~of Title 31;~~
 3226 ~~(C) Community living arrangement subject to licensure under paragraph (16)(11) of~~
 3227 ~~subsection (b) and subsection (c) of Code Section 37-1-20 49-2-6; or~~
 3228 ~~(D)~~(B) Child welfare agency required to be licensed under Code Section 49-5-12.
- 3229 (5) 'GCIC' means the Georgia Crime Information Center established under Article 2 of
 3230 Chapter 3 of Title 35.
- 3231 (6) 'GCIC information' means criminal history record information as defined in Code
 3232 Section 35-3-30.
- 3233 (7) 'License' means the document issued by the department to authorize the facility to
 3234 operate.
- 3235 (8) 'Owner' means any individual or any person affiliated with a corporation, partnership,
 3236 or association with 10 percent or greater ownership interest in a facility providing care
 3237 to persons under the license of the facility in this state and who:
- 3238 (A) Purports to or exercises authority of the owner in a facility;
 3239 (B) Applies to operate or operates a facility;
 3240 (C) Maintains an office on the premises of a facility;
 3241 (D) Resides at a facility;
 3242 (E) Has direct access to persons receiving care at a facility;
 3243 (F) Provides direct personal supervision of facility personnel by being immediately
 3244 available to provide assistance and direction during the time such facility services are
 3245 being provided; or
 3246 (G) Enters into a contract to acquire ownership of a facility.
- 3247 (9) 'Records check application' means ~~two sets of classifiable~~ fingerprints in such form
 3248 and of such quality as prescribed by the Georgia Crime Information Center under
 3249 standards adopted by the Federal Bureau of Investigation and a records search fee to be
 3250 established by the department by rule and regulation, payable in such form as the
 3251 department may direct to cover the cost of obtaining criminal background information
 3252 pursuant to this Code section.

3253 (b) An owner with a criminal record shall not operate or hold a license to operate a facility,
3254 and the department shall revoke the license of any owner operating a facility or refuse to
3255 issue a license to any owner operating a facility if it determines that such owner has a
3256 criminal record; provided, however, that an owner who holds a license to operate a facility
3257 on or before June 30, 2007, shall not have his or her license revoked prior to a hearing
3258 being held before a hearing officer pursuant to Chapter 13 of Title 50, the 'Georgia
3259 Administrative Procedure Act.'

3260 (c)(1) Prior to approving any license for a new facility and periodically as established by
3261 the department by rule and regulation, the department shall require an owner to submit
3262 a records check application. The department shall establish a uniform method of
3263 obtaining an owner's records check application.

3264 (2)(A) Unless the department contracts pursuant to subparagraph (B) of this paragraph,
3265 the department shall transmit to the GCIC ~~both sets of the~~ fingerprints and ~~the~~ records
3266 search fee from each fingerprint records check application in accordance with Code
3267 Section 35-3-35. Upon receipt thereof, the GCIC shall promptly transmit ~~one set of the~~
3268 fingerprints to the Federal Bureau of Investigation for a search of bureau records and
3269 an appropriate report and shall ~~retain the other set and~~ promptly conduct a search of its
3270 records and records to which it has access. Within ten days after receiving fingerprints
3271 acceptable to the GCIC and the fee, the GCIC shall notify the department in writing of
3272 any criminal record or if there is no such finding. After a search of Federal Bureau of
3273 Investigation records and fingerprints and upon receipt of the bureau's report, the
3274 department shall make a determination about an owner's criminal record and shall
3275 notify the owner in writing as to the department's determination as to whether the owner
3276 has or does not have a criminal record.

3277 (B) The department may either perform criminal background checks under agreement
3278 with the GCIC or contract with the GCIC and appropriate law enforcement agencies
3279 which have access to GCIC and Federal Bureau of Investigation information to have
3280 those agencies perform for the department criminal background checks for owners. The
3281 department or the appropriate law enforcement agencies may charge reasonable fees
3282 for performing criminal background checks.

3283 (3)(A) The department's determination regarding an owner's criminal record, or any
3284 action by the department revoking or refusing to grant a license based on such
3285 determination, shall constitute a contested case for purposes of Chapter 13 of Title 50,
3286 the 'Georgia Administrative Procedure Act,' except that any hearing required to be held
3287 pursuant thereto may be held reasonably expeditiously after such determination or
3288 action by the department.

3289 (B) In a hearing held pursuant to subparagraph (A) of this paragraph or subsection (b)
 3290 of this Code section, the hearing officer shall consider in mitigation the length of time
 3291 since the crime was committed, the absence of additional criminal charges, the
 3292 circumstances surrounding the commission of the crime, other indicia of rehabilitation,
 3293 the facility's history of compliance with the regulations, and the owner's involvement
 3294 with the licensed facility in arriving at a decision as to whether the criminal record
 3295 requires the denial or revocation of the license to operate the facility. Where a hearing
 3296 is required, at least 30 days prior to such hearing, the hearing officer shall notify the
 3297 office of the prosecuting attorney who initiated the prosecution of the crime in question
 3298 in order to allow the prosecutor to object to a possible determination that the conviction
 3299 would not be a bar for the grant or continuation of a license as contemplated within this
 3300 Code section. If objections are made, the hearing officer shall take such objections into
 3301 consideration in considering the case.

3302 (4) ~~Neither the~~ The GCIC, the department, any law enforcement agency, ~~nor~~ and the
 3303 employees of any such entities shall not be responsible for the accuracy of information
 3304 nor have any liability for defamation, invasion of privacy, negligence, or any other claim
 3305 in connection with any dissemination of information or determination based thereon
 3306 pursuant to this Code section.

3307 (d) All information received from the Federal Bureau of Investigation or the GCIC shall
 3308 be for the exclusive purpose of approving or denying the granting of a license to a new
 3309 facility or the revision of a license of an existing facility when a new owner is proposed and
 3310 shall not be released or otherwise disclosed to any other person or agency ~~except to any~~
 3311 ~~person or agency with a legal right to inspect the facility.~~ All such information collected
 3312 by the department shall be maintained by the department pursuant to laws regarding and
 3313 the rules or regulations of the Federal Bureau of Investigation and the GCIC, as is
 3314 applicable. Penalties for the unauthorized release or disclosure of any such information
 3315 shall be as prescribed pursuant to laws regarding and rules or regulations of the Federal
 3316 Bureau of Investigation and the GCIC, as is applicable.

3317 (e) The requirements of this Code section are supplemental to any requirements for a
 3318 license imposed by Article 3 of Chapter 5 of this title or Article 11 of Chapter 7 of Title 31.

3319 (f) The department shall promulgate written rules and regulations to implement the
 3320 provisions of this Code section.

3321 49-2-15.

3322 When any action is brought against the Department of Human Resources Services, the
 3323 Board of Human Resources Services, the commissioner of human resources services, or
 3324 any employee or agent thereof or when any action is brought in which the department could

3325 be held responsible for damages awarded in such action, it shall be the duty of the plaintiff
3326 to provide for service of notice of the pendency of such action by providing for service of
3327 a second original process, issued from the court in which the action is filed, upon the
3328 commissioner of human ~~resources~~ services personally or upon a person designated by the
3329 commissioner in writing to serve as agent for the acceptance of such service of process.
3330 The service of process in such action shall not be perfected until such second original
3331 process has been served as provided in this Code section. The provisions of this Code
3332 section shall be cumulative of any other requirements imposed by law for the service of
3333 process or notice.

3334 49-2-16.

3335 (a) There is created a Georgia Council for Welfare Administration. The objectives ~~for~~ of
3336 the council shall be:

3337 (1) To promote improvements in public welfare and social service programs of the
3338 Division of Family and Children Services within the Department of Human ~~Resources~~
3339 Services;

3340 (2) To provide a forum for the interchange of information relating to welfare and social
3341 service programs; and

3342 (3) To promote with any organization exempt under Section 501(c)(4) of the United
3343 States Internal Revenue Code of 1986 a more efficient public welfare delivery system for
3344 the citizens of this state.

3345 (b) Membership in the council shall be open to persons actively employed in the Division
3346 of Family and Children Services within the Department of Human ~~Resources~~ Services.

3347 (c) No state funds shall be appropriated for the benefit or use of the council.

3348 (d) The council is authorized to adopt bylaws which prescribe its organizational structure,
3349 officers, terms and condition of office, meeting schedules, and such other organizational
3350 procedures as are necessary for its lawful and effective functioning.

3351 (e) The commissioner of human ~~resources~~ services shall call the initial meeting of the
3352 council at which time the council shall organize and select its officers.

3353 49-2-17.

3354 (a) This Code section shall be applicable to any agency, facility, institution, community
3355 living arrangement, or entity subject to regulation by the department under Chapter 5 of
3356 this title or paragraph (11) of subsection (b) of Code Section 49-2-6. For purposes of this
3357 Code section, the term 'license' shall be used to refer to any license, permit, registration, or
3358 commission issued by the department pursuant to the provisions of the law cited in this
3359 subsection.

3360 (b) The department shall have the authority to take any of the actions enumerated in
3361 subsection (c) of this Code section upon a finding that the applicant or licensee has:

3362 (1) Knowingly made any false statement of material information in connection with the
3363 application for a license, or in statements made or on documents submitted to the
3364 department as part of an inspection, survey, or investigation, or in the alteration or
3365 falsification of records maintained by the agency, facility, institution, or entity;

3366 (2) Failed or refused to provide the department with access to the premises subject to
3367 regulation or information pertinent to the initial or continued licensing of the agency,
3368 facility, institution, or entity;

3369 (3) Failed to comply with the licensing requirements of this state; or

3370 (4) Failed to comply with any provision of this Code section.

3371 (c) When the department finds that any applicant or licensee has violated any provision
3372 of subsection (b) of this Code section or laws, rules, regulations, or formal orders related
3373 to the initial or continued licensing of the agency, facility, institution, or entity, the
3374 department, subject to notice and opportunity for hearing, may take any of the following
3375 actions:

3376 (1) Refuse to grant a license; provided, however, that the department may refuse to grant
3377 a license without holding a hearing prior to taking such action;

3378 (2) Administer a public reprimand;

3379 (3) Suspend any license for a definite period or for an indefinite period in connection
3380 with any condition which may be attached to the restoration of said license;

3381 (4) Prohibit any applicant or licensee from allowing a person who previously was
3382 involved in the management or control, as defined by rule, of any agency, facility,
3383 institution, or entity which has had its license or application revoked or denied within the
3384 past 12 months to be involved in the management or control of such agency, facility,
3385 institution, or entity;

3386 (5) Revoke any license;

3387 (6) Impose a fine, not to exceed a total of \$25,000.00, of up to \$1,000.00 per day for
3388 each violation of a law, rule, regulation, or formal order related to the initial or ongoing
3389 licensing of any agency, facility, institution, or entity; or

3390 (7) Limit or restrict any license as the department deems necessary for the protection of
3391 the public, including, but not limited to, restricting some or all services of or admissions
3392 into an agency, facility, institution, or entity for a time certain.

3393 In taking any of the actions enumerated in this subsection, the department shall consider
3394 the seriousness of the violation, including the circumstances, extent, and gravity of the
3395 prohibited acts, and the hazard or potential hazard created to the health or safety of the
3396 public.

3397 (d) The department may deny a license or otherwise restrict a license for any applicant
3398 who has had a license denied, revoked, or suspended within one year of the date of an
3399 application or who has transferred ownership or governing authority of an agency, facility,
3400 institution, or entity subject to regulation by the department within one year of the date of
3401 a new application when such transfer was made in order to avert denial, revocation, or
3402 suspension of a license.

3403 (e) With regard to any contested case instituted by the department pursuant to this Code
3404 section or other provisions of law which may now or hereafter authorize remedial or
3405 disciplinary grounds and action, the department may, in its discretion, dispose of the action
3406 so instituted by settlement. In such cases, all parties, successors, and assigns to any
3407 settlement agreement shall be bound by the terms specified therein and violation thereof
3408 by any applicant or licensee shall constitute grounds for any action enumerated in
3409 subsection (c) of this Code section.

3410 (f) The department shall have the authority to make public or private investigations or
3411 examinations inside or outside of this state to determine whether the provisions of this
3412 Code section or any other law, rule, regulation, or formal order relating to the licensing of
3413 any agency, facility, institution, or entity has been violated. Such investigations may be
3414 initiated at any time, in the discretion of the department, and may continue during the
3415 pendency of any action initiated by the department pursuant to subsection (c) of this Code
3416 section.

3417 (g) For the purpose of conducting any investigation, inspection, or survey, the department
3418 shall have the authority to require the production of any books, records, papers, or other
3419 information related to the initial or continued licensing of any agency, facility, institution,
3420 or entity.

3421 (h) Pursuant to the investigation, inspection, and enforcement powers given to the
3422 department by this Code section and other applicable laws, the department may assess
3423 against an agency, facility, institution, or entity reasonable and necessary expenses incurred
3424 by the department pursuant to any administrative or legal action required by the failure of
3425 the agency, facility, institution, or entity to fully comply with the provisions of any law,
3426 rule, regulation, or formal order related to the initial or continued licensing. Assessments
3427 shall not include attorney's fees and expenses of litigation, shall not exceed other actual
3428 expenses, and shall only be assessed if such investigations, inspection, or enforcement
3429 actions result in adverse findings, as finally determined by the department, pursuant to
3430 administrative or legal action.

3431 (i) For any action taken or any proceeding held under this Code section or under color of
3432 law, except for gross negligence or willful or wanton misconduct, the department, when

3433 acting in its official capacity, shall be immune from liability and suit to the same extent that
 3434 any judge of any court of general jurisdiction in this state would be immune.

3435 (j) In an administrative or legal proceeding under this Code section, a person or entity
 3436 claiming an exemption or an exception granted by law, rule, regulation, or formal order has
 3437 the burden of proving this exemption or exception.

3438 (k) This Code section and all actions resulting from its provisions shall be administered
 3439 in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

3440 (l) The provisions of this Code section shall be supplemental to and shall not operate to
 3441 prohibit the department from acting pursuant to those provisions of law which may now
 3442 or hereafter authorize remedial or disciplinary grounds and action for the department. In
 3443 cases where those other provisions of law so authorize other disciplinary grounds and
 3444 actions, but this Code section limits such grounds or actions, those other provisions shall
 3445 apply.

3446 (m) The department is authorized to promulgate rules and regulations to implement the
 3447 provisions of this Code section.

3448 49-2-18.

3449 (a)(1) The commissioner may order the emergency relocation of patients or residents
 3450 from a community living arrangement subject to licensure under paragraph (11) of
 3451 subsection (b) of Code Section 49-2-6 when the commissioner has determined that the
 3452 patients or residents are subject to an imminent and substantial danger.

3453 (2) When an order is issued under this subsection, the commissioner shall provide for:

3454 (A) Notice to the patient or resident, his or her next of kin or guardian, and his or her
 3455 physician of the emergency relocation and the reasons therefor;

3456 (B) Relocation to the nearest appropriate community living arrangement; and

3457 (C) Other protection designed to ensure the welfare and, when possible, the desires of
 3458 the patient or resident.

3459 (b)(1) The commissioner may order the emergency placement of a monitor in a
 3460 community living arrangement subject to licensure under paragraph (11) of subsection
 3461 (b) of Code Section 49-2-6 when one or more of the following conditions are present:

3462 (A) The community living arrangement is operating without a license;

3463 (B) The department has denied application for a license or has initiated action to
 3464 revoke the existing license of the community living arrangement;

3465 (C) The community living arrangement is closing or plans to close and adequate
 3466 arrangements for relocation of the patients or residents have not been made at least 30
 3467 days before the date of closure; or

3468 (D) The health, safety, security, rights, or welfare of the patients or residents cannot
3469 be adequately assured by the community living arrangement.

3470 (2) A monitor may be placed, pursuant to this subsection, in a community living
3471 arrangement for no more than ten days, during which time the monitor shall observe
3472 conditions and compliance with any recommended remedial action of the department by
3473 the community living arrangement. The monitor shall report to the department. The
3474 monitor shall not assume any administrative responsibility within the community living
3475 arrangement nor shall the monitor be liable for any actions of the community living
3476 arrangement. The costs of placing a monitor in a community living arrangement shall be
3477 paid by the community living arrangement unless the order placing the monitor is
3478 determined to be invalid in a contested case proceeding under subsection (d) of this Code
3479 section, in which event the costs shall be paid by the state.

3480 (c)(1) The commissioner may order the emergency prohibition of admissions to a
3481 community living arrangement subject to licensure under paragraph (11) of subsection
3482 (b) of Code Section 49-2-6 when the community living arrangement has failed to correct
3483 a violation of departmental permit rules or regulations within a reasonable period of time,
3484 as specified in the department's corrective order, and the violation:

3485 (A) Could jeopardize the health and safety of the residents or patients in the
3486 community living arrangement if allowed to remain uncorrected; or

3487 (B) Is a repeat violation over a 12 month period, which is intentional or due to gross
3488 negligence.

3489 (2) Admission to a community living arrangement may be suspended until the violation
3490 has been corrected or until the department has determined that the community living
3491 arrangement has undertaken the action necessary to effect correction of the violation.

3492 (d) The commissioner may issue emergency orders pursuant to this Code section only if
3493 authorized by rules and regulations of the department. Unless otherwise provided in the
3494 order, an emergency order shall become effective immediately. The department shall hold
3495 a preliminary hearing within ten days following a request therefor by any community living
3496 arrangement affected by an emergency order. If at the preliminary hearing the order is
3497 determined by the department to be invalid, that order shall thereupon become void and of
3498 no effect. If at the preliminary hearing the order is determined by the department to be
3499 valid, that determination shall constitute a contested case under Chapter 13 of Title 50, the
3500 'Georgia Administrative Procedure Act,' and that order shall remain in effect until
3501 determined invalid in a proceeding regarding the contested case or until rescinded by the
3502 commissioner, whichever is earlier. For purposes of this subsection, an emergency order
3503 is valid only if the order is authorized to be issued under this Code section and rules and
3504 regulations relating thereto.

3505 (e) The powers provided by this Code section are cumulative of all other powers of the
3506 department, board, and commissioner.

3507 ARTICLE 2

3508 49-2-20.

3509 As used in this part, the term:

3510 (1) 'Inspection warrant' means a warrant authorizing a search or inspection of private
3511 property where such a search or inspection is one that is necessary for the enforcement
3512 of a residential child care licensing law.

3513 (2) 'Residential child care licensing law' means this chapter and Chapter 5 of this title
3514 and any rule or regulation duly promulgated thereunder.

3515 49-2-21.

3516 The commissioner or the commissioner's designee, in addition to other procedures now or
3517 hereafter provided, may obtain an inspection warrant under the conditions specified in this
3518 part. Such warrant shall authorize the commissioner or the commissioner's designee to
3519 conduct a search or inspection of property either with or without the consent of the person
3520 whose property is to be searched or inspected if such search or inspection is one that is
3521 elsewhere authorized under the rules and regulations duly promulgated pursuant to a
3522 residential child care licensing law.

3523 49-2-22.

3524 (a) Inspection warrants shall be issued only by a judge of a court of record whose
3525 territorial jurisdiction encompasses the property to be inspected.

3526 (b) The issuing judge shall issue the warrant when the judge is satisfied that the following
3527 conditions are met:

3528 (1) The one seeking the warrant must establish under oath or affirmation that the
3529 property to be inspected is to be inspected as a part of a legally authorized program of
3530 inspection which includes that property or that there is probable cause for believing that
3531 there is a condition, object, activity, or circumstance which legally justifies such an
3532 inspection of that property; and

3533 (2) The issuing judge determines that the issuance of the warrant is authorized by this
3534 part.

3535 49-2-23.

3536 The inspection warrant shall be validly issued only if it meets the following requirements:

3537 (1) The warrant is attached to the affidavit required to be made in order to obtain the
 3538 warrant;

3539 (2) The warrant describes either directly or by reference to the affidavit the property
 3540 upon which the inspection is to occur and is sufficiently accurate that the executor of the
 3541 warrant and the owner or possessor of the property can reasonably determine from it the
 3542 property of which the warrant authorizes an inspection;

3543 (3) The warrant indicates the conditions, objects, activities, or circumstances which the
 3544 inspection is intended to check or reveal; and

3545 (4) The warrant refers in general terms to the statutory or regulatory provisions sought
 3546 to be enforced.

3547 49-2-24.

3548 No facts discovered or evidence obtained in an inspection conducted under authority of an
 3549 inspection warrant issued pursuant to this part shall be competent as evidence in any
 3550 criminal proceeding against any party.

3551 49-2-25.

3552 The Department of Human Services is empowered to institute appropriate proceedings for
 3553 injunction in the courts of competent jurisdiction in this state for the purpose of enjoining
 3554 a violation of any provision of a residential child care licensing law as now existing or as
 3555 may be hereafter amended or of any regulation or order duly issued by the board or
 3556 department. The department is also empowered to maintain action for injunction to abate
 3557 any public nuisance which is injurious to the public health, safety, or comfort. Such
 3558 actions may be maintained notwithstanding the fact that such violation also constitutes a
 3559 crime and notwithstanding that other adequate remedies at law exist. Such actions may be
 3560 instituted in the name of the department in the county in which a violation of any provision
 3561 of this title occurs."

3562 **SECTION 2-2.**

3563 The following Code sections of the Official Code of Georgia Annotated are amended by
 3564 replacing "Department of Human Resources" wherever it occurs with "Department of Human
 3565 Services":

3566 (1) Code Section 2-7-102, relating to grounds for denial, suspension, revocation, or
 3567 modification of license, permit, or certification for use and application of pesticides;

3568 (2) Code Section 10-1-855, relating to referral procedures to provide intervention and
 3569 assistance for elder or disabled persons;

- 3570 (3) Code Section 12-6-49.1, relating to denial or suspension of license for
3571 noncompliance with child support order;
- 3572 (4) Code Section 15-11-8, relating to expenses charged to county and payment by
3573 parents on court order;
- 3574 (5) Code Section 15-11-14, relating to emergency care and supervision of a child by the
3575 Department of Human Resources;
- 3576 (6) Code Section 15-11-15, relating to detainment of child in temporary protective
3577 custody of a physician;
- 3578 (7) Code Section 15-11-19, relating to the establishment of the Council of Juvenile Court
3579 Judges;
- 3580 (8) Code Section 15-11-55, relating to disposition of a deprived child;
- 3581 (9) Code Section 15-11-58, relating to reasonable efforts regarding reunification of
3582 family;
- 3583 (10) Code Section 15-11-71, relating to supervision fees for juvenile courts;
- 3584 (11) Code Section 15-11-103, relating to placement of a child following a termination
3585 order;
- 3586 (12) Code Section 15-11-171, relating to definitions relative to the "Georgia Child
3587 Advocate for the Protection of Children Act";
- 3588 (13) Code Section 15-11A-4, relating to appointment of personnel to the Family Court
3589 Division of the Superior Court of Fulton County;
- 3590 (14) Code Section 15-18-14, relating to appointment of prosecuting attorneys;
- 3591 (15) Code Section 18-4-131, relating to definitions relative to continuing garnishment
3592 for family support;
- 3593 (16) Code Section 19-6-15, relating to child support in final verdict or decree;
- 3594 (17) Code Section 19-6-31, relating to definitions relative to income deduction orders;
- 3595 (18) Code Section 19-6-33.1, relating to the family support registry;
- 3596 (19) Code Section 19-6-51, relating to members of the Georgia Child Support
3597 Commission;
- 3598 (20) Code Section 19-7-5, relating to reporting of child abuse;
- 3599 (21) Code Section 19-7-6, relating to reporting of juvenile drug use;
- 3600 (22) Code Section 19-7-22, relating to petitions for legitimation of child;
- 3601 (23) Code Section 19-7-40, relating to jurisdiction and administrative determination of
3602 paternity;
- 3603 (24) Code Section 19-7-43, relating to petitions to establish paternity of a child;
- 3604 (25) Code Section 19-7-52, relating to whom support payments may be made;
- 3605 (26) Code Section 19-7-54, relating to motions to set aside determination of paternity;
- 3606 (27) Code Section 19-8-1, relating to definitions relative to adoption;

- 3607 (28) Code Section 19-8-5, relating to surrender or termination of parental or guardian's
3608 rights where child to be adopted by a third party;
- 3609 (29) Code Section 19-8-23, relating to where records of adoption are kept;
- 3610 (30) Code Section 19-8-26, relating to how surrender of parental rights is executed;
- 3611 (31) Code Section 19-9-122, relating to delegation of authority for the care of a minor
3612 child;
- 3613 (32) Code Section 19-9-129, relating to the power of attorney form for the care of a
3614 minor child;
- 3615 (33) Code Section 19-10A-5, relating to investigating and reporting utilization of
3616 provisions under the "Safe Place for Newborns Act of 2002";
- 3617 (34) Code Section 19-10A-6, relating to reimbursement of medical costs under the "Safe
3618 Place for Newborns Act of 2002";
- 3619 (35) Code Section 19-11-3, relating to definitions relative to the "Child Support
3620 Recovery Act";
- 3621 (36) Code Section 19-11-9.1, relating to duty to furnish information about obligor to the
3622 Department of Human Resources;
- 3623 (37) Code Section 19-11-9.2, relating to duty of employers to report hiring or rehiring
3624 of persons;
- 3625 (38) Code Section 19-11-9.3, relating to suspension or denial of license for
3626 noncompliance with child support order;
- 3627 (39) Code Section 19-11-18, relating to collection procedures for child support payments
3628 in arrears;
- 3629 (40) Code Section 19-11-30.1, relating to the computer based registry for financial
3630 institutions with regard to the "Child Support Recovery Act";
- 3631 (41) Code Section 19-11-30.2, relating to definitions relative to the computer based
3632 registry for financial institutions with regard to the "Child Support Recovery Act";
- 3633 (42) Code Section 19-11-30.3, relating to the responsibility of the Department of Human
3634 Resources Bank Match Registry;
- 3635 (43) Code Section 19-11-58, relating to the Department of Human Resources designated
3636 as the state information agency under the "Uniform Reciprocal Enforcement of Support
3637 Act";
- 3638 (44) Code Section 19-11-102, relating to designated tribunals under the "Uniform
3639 Interstate Family Support Act";
- 3640 (45) Code Section 19-11-110, relating to jurisdiction under the "Uniform Interstate
3641 Family Support Act";

- 3642 (46) Code Section 19-11-127, relating to authority of district attorney to represent the
3643 Department of Human Resources in a proceeding under the "Uniform Interstate Family
3644 Support Act";
- 3645 (47) Code Section 19-11-129, relating to the Department of Human Resources as the
3646 state information agency under the "Uniform Interstate Family Support Act";
- 3647 (48) Code Section 19-13-20, relating to definitions relative to family violence shelters;
3648 (49) Code Section 19-15-2, relating to child abuse protocol committees;
- 3649 (50) Code Section 19-15-3, relating to county multiagency child fatality review
3650 committees;
- 3651 (51) Code Section 20-1A-60, relating to definitions relative to the Georgia Child Care
3652 Council;
- 3653 (52) Code Section 20-2-133, relating to free public instruction for children in elementary
3654 and secondary education;
- 3655 (53) Code Section 20-2-250, relating to projects to improve effectiveness in elementary
3656 and secondary education;
- 3657 (54) Code Section 20-2-696, relating to duties of visiting teachers and attendance
3658 officers;
- 3659 (55) Code Section 20-3-660, relating to creation of a program of postsecondary grants
3660 for foster children and adopted children;
- 3661 (56) Code Section 29-4-2, relating to qualifications of guardians selected for adults;
3662 (57) Code Section 29-4-3, relating to order of preference in selection of guardians;
- 3663 (58) Code Section 29-9-10, relating to oath by a duly appointed delegate of the
3664 Department of Human Resources;
- 3665 (59) Code Section 29-10-3, relating to qualifications and requirements of public
3666 guardians;
- 3667 (60) Code Section 29-10-4, relating to registration of public guardians with the probate
3668 court;
- 3669 (61) Code Section 29-10-10, relating to compensation of public guardians;
- 3670 (62) Code Section 29-10-11, relating to appropriation of funds for compensation of
3671 public guardians in certain circumstances;
- 3672 (63) Code Section 30-1-5, relating to the definition of a "hearing impaired person";
- 3673 (64) Code Section 30-2-7, relating to compensation of workers in the Georgia Industries
3674 for the Blind;
- 3675 (65) Code Section 30-5-3, relating to definitions relative to the "Disabled Adults and
3676 Elder Persons Protection Act"
- 3677 (66) Code Section 30-5-10, relating to cooperative effort in development of programs
3678 relating to the abuse and exploitation of persons 65 years of age or older;

- 3679 (67) Code Section 31-7-282, relating to collection and submission of health care data;
3680 (68) Code Section 31-8-52, relating to the establishment of a long-term care ombudsman
3681 program;
3682 (69) Code Section 31-8-116, relating to involuntary transfer of residents discharged from
3683 a long-term care facility;
3684 (70) Code Section 31-10-9.1, relating to social security account information of parents
3685 with respect to vital records;
3686 (71) Code Section 34-8-199, relating to uncollected overissuance of food stamp coupons;
3687 (72) Code Section 39-4-1, relating to the definition of "appropriate public authority" with
3688 respect to the Interstate Compact on the Placement of Children;
3689 (73) Code Section 39-4-2, relating to the definition of "appropriate authority in the
3690 receiving state" with respect to the Interstate Compact on the Placement of Children;
3691 (74) Code Section 40-5-2, relating to keeping of records of applications for licenses and
3692 information on licensees;
3693 (75) Code Section 40-5-54.1, relating to denial or suspension of license for
3694 noncompliance with child support order;
3695 (76) Code Section 42-1-12, relating to the state sexual offender registry;
3696 (77) Code Section 42-9-58, relating to effect of state pardons and paroles laws on other
3697 laws respecting parole and probation;
3698 (78) Code Section 43-1-19, relating to grounds for refusing to grant or revoking licenses
3699 by a professional licensing board;
3700 (79) Code Section 45-9-4, relating to the commissioner of administrative services to
3701 purchase insurance or indemnity contracts;
3702 (80) Code Section 45-13-22, relating to distribution of Georgia Laws and journals of the
3703 House of Representatives and Senate;
3704 (81) Code Section 46-4-152, relating to definitions relative to the "Natural Gas
3705 Competition and Deregulation Act";
3706 (82) Code Section 46-4-158.3, relating to adequate and accurate consumer information
3707 disclosure statements;
3708 (83) Code Section 48-7-29.15, relating to a tax credit for the adoption of a foster child;
3709 (84) Code Section 49-3-1, relating to establishment of county and district departments,
3710 boards, and directors;
3711 (85) Code Section 49-3-3, relating to appointment of county director; bond of county
3712 director;
3713 (86) Code Section 49-3-4, relating to appointment of staff, salaries, and power of the
3714 commissioner of human resources to transfer employees;

- 3715 (87) Code Section 49-3-6, relating to functions of county departments of family and
3716 children services;
- 3717 (88) Code Section 49-4-2, relating to definitions relative to public assistance;
- 3718 (89) Code Section 49-4-3, relating to establishment of categories of public assistance;
- 3719 (90) Code Section 49-4-6, relating to reserves, income, and resources to be disregarded
3720 in determining eligibility for public assistance;
- 3721 (91) Code Section 49-4-8, relating to applications for public assistance;
- 3722 (92) Code Section 49-4-9, relating to investigation and record concerning application for
3723 public assistance;
- 3724 (93) Code Section 49-4-14, relating to regulations as to records relating to public
3725 assistance;
- 3726 (94) Code Section 49-4-36, relating to payment of assistance for needy individuals who
3727 are 65 years of age or older after recipient moves to another county;
- 3728 (95) Code Section 49-4-54, relating to duties of county departments under the "Aid to
3729 the Blind Act";
- 3730 (96) Code Section 49-4-56, relating to reexamination of recipient's eyesight under the
3731 "Aid to the Blind Act";
- 3732 (97) Code Section 49-4-60, relating to payment of assistance for needy blind individuals
3733 after recipient moves to another county;
- 3734 (98) Code Section 49-4-85, relating to payment of assistance for needy individuals who
3735 are totally and permanently disabled after recipient moves to another county;
- 3736 (99) Code Section 49-4-162, relating to the establishment of the Georgia Qualified
3737 Long-term Care Partnership Program;
- 3738 (100) Code Section 49-4-171, relating to a hearing on the petition for a personal
3739 representative to manage assistance payments;
- 3740 (101) Code Section 49-4-181, relating to definitions relative to temporary assistance for
3741 needy families;
- 3742 (102) Code Section 49-4-183, relating to administration of the temporary assistance for
3743 needy families program by the Department of Human Resources;
- 3744 (103) Code Section 49-4-190, relating to construction of the laws relating to the
3745 temporary assistance for needy families program;
- 3746 (104) Code Section 49-5-4, relating to the coordination of other state departments,
3747 agencies, officers, and employees for children and youth services;
- 3748 (105) Code Section 49-5-7, relating to development and administration of public child
3749 welfare and youth services;
- 3750 (106) Code Section 49-5-8, relating to powers and duties of the Department of Human
3751 Resources with respect to programs and protection for children and youth;

- 3752 (107) Code Section 49-5-12, relating to licensing and inspection of child welfare
 3753 agencies;
- 3754 (108) Code Section 49-5-41, relating to persons and agencies permitted access to child
 3755 abuse and deprivation records;
- 3756 (109) Code Section 49-5-41.1, relating to inspection and retention of records of juvenile
 3757 drug use;
- 3758 (110) Code Section 49-5-90, relating to definitions relative to emergency protection of
 3759 children in certain institutions;
- 3760 (111) Code Section 49-5-130, relating to legislative findings and intent relative to the
 3761 Governor's Office for Children and Families;
- 3762 (112) Code Section 49-5-154, relating to study of youth needs for delinquency
 3763 prevention and community based services;
- 3764 (113) Code Section 49-5-180, relating to definitions relative to a central child abuse
 3765 registry;
- 3766 (114) Code Section 49-5-281, relating to the bill of rights for foster parents;
- 3767 (115) Code Section 49-6-20, relating to the creation of the Council on Aging;
- 3768 (116) Code Section 49-6-60, relating to legislative intent for community care and
 3769 services for the elderly;
- 3770 (117) Code Section 49-6-61, relating to definitions relative to community care and
 3771 services for the elderly;
- 3772 (118) Code Section 49-6-72, relating to definitions relative to the "Georgia Family
 3773 Caregiver Support Act";
- 3774 (119) Code Section 49-6-81, relating to the legislative intent of the "Adult Day Center
 3775 for Aging Adults Licensure Act";
- 3776 (120) Code Section 49-6-82, relating to definitions relative to the "Adult Day Center for
 3777 Aging Adults Licensure Act";
- 3778 (121) Code Section 50-5-136, relating to the powers and authority of the State Use
 3779 Council; and
- 3780 (122) Code Section 50-27-55, relating to setoff of debt collection against lottery prizes
 3781 applicable to prizes of \$5,000.00 or more.

3782 **SECTION 2-3.**

3783 The following Code sections of the Official Code of Georgia Annotated are amended by
 3784 replacing "Board of Human Resources" wherever it occurs with "Board of Human Services":

- 3785 (1) Code Section 9-10-152, relating to grounds for continuance in any case pending in
 3786 the courts of this state for attendance by a board member at meeting of Board of Human
 3787 Resources;

- 3788 (2) Code Section 17-8-30, relating to grounds for granting of continuances in any case
 3789 pending in the courts of this state for party or party's counsel in attendance as a board
 3790 member at meeting of Board of Human Resources;
- 3791 (3) Code Section 19-11-5, relating to debt to state created by payment of public
 3792 assistance under the "Child Support Recovery Act";
- 3793 (4) Code Section 30-5-6, relating to cooperation of other public agencies with the
 3794 director of the Division of Aging Services of the Department of Human Resources under
 3795 the "Disabled Adults and Elder Persons Protection Act";
- 3796 (5) Code Section 45-10-40, relating to prohibitions on contracting with state institutions;
- 3797 (6) Code Section 45-10-41, relating to penalty for profiting from contracts with state
 3798 institutions generally;
- 3799 (7) Code Section 49-3-6, relating to functions of county departments of family and
 3800 children services;
- 3801 (8) Code Section 49-4-11, relating to award and payment of public assistance to needy
 3802 persons;
- 3803 (9) Code Section 49-4-12, relating to periodic redetermination of public assistance
 3804 awards;
- 3805 (10) Code Section 49-4-54, relating to duties of county departments under the "Aid to
 3806 the Blind Act";
- 3807 (11) Code Section 49-4-181, relating to definitions relative to temporary assistance for
 3808 needy families;
- 3809 (12) Code Section 49-4-183, relating to administration of the temporary assistance for
 3810 needy families program by the Department of Human Resources;
- 3811 (13) Code Section 49-5-12, relating to licensing and inspection of child welfare agencies;
 3812 and
- 3813 (14) Code Section 49-6-62, relating to the establishment of community care unit in the
 3814 Division of Aging Services of the Department of Human Resources.

3815 **SECTION 2-4.**

3816 The following Code sections of the Official Code of Georgia Annotated are amended by
 3817 replacing "commissioner of human resources" wherever it occurs with "commissioner of
 3818 human services":

- 3819 (1) Code Section 19-8-16, relating to investigation by child-placing agency or other
 3820 agent with respect to adoption;
- 3821 (2) Code Section 19-8-23, relating to where records of adoption are kept;
- 3822 (3) Code Section 19-11-9, relating to location of absent parents by the Department of
 3823 Human Resources with respect to the "Child Support Recovery Act";

- 3824 (4) Code Section 19-11-11, relating to issuance of subpoenas by the Department of
3825 Human Resources with respect to the "Child Support Recovery Act";
- 3826 (5) Code Section 19-11-18, relating to collection procedures with respect to the "Child
3827 Support Recovery Act";
- 3828 (6) Code Section 19-11-30.6, relating to reciprocal agreements with other states with
3829 respect to the "Child Support Recovery Act";
- 3830 (7) Code Section 19-11-30.7, relating to construction of the "Child Support Recovery
3831 Act";
- 3832 (8) Code Section 19-11-30.8, relating to annual reports with respect to the "Child
3833 Support Recovery Act";
- 3834 (9) Code Section 19-11-30.9, relating to information subject to disclosure with respect
3835 to the "Child Support Recovery Act";
- 3836 (10) Code Section 19-11-30.11, relating to fee on levied accounts with respect to the
3837 "Child Support Recovery Act";
- 3838 (11) Code Section 20-1A-61, relating to the members of the Child Care Council;
- 3839 (12) Code Section 28-5-60, relating to creation of the Claims Advisory Board;
- 3840 (13) Code Section 30-1-5, relating to the definition of a "hearing impaired person";
- 3841 (14) Code Section 30-2-7, relating to compensation of workers in the Georgia Industries
3842 for the Blind;
- 3843 (15) Code Section 31-8-53, relating to duties of the state long-term care ombudsman;
- 3844 (16) Code Section 45-7-7, relating to compensation and allowances of certain public
3845 officials not to be changed without giving public notice;
- 3846 (17) Code Section 45-9-4, relating to commissioner of administrative services to
3847 purchase insurance or indemnity contracts insuring or indemnifying state officers,
3848 officials, or employees against personal liability;
- 3849 (18) Code Section 49-3-3, relating to appointment of the director of each county board
3850 of family and children services;
- 3851 (19) Code Section 49-3-4, relating to appointment of the staff of each county board of
3852 family and children services;
- 3853 (20) Code Section 49-4-15.1, relating to examination of financial records in instances of
3854 alleged fraud by recipients of food stamps and public assistance;
- 3855 (21) Code Section 49-4A-3, relating to the creation of the Department of Juvenile
3856 Justice;
- 3857 (22) Code Section 49-5-90, relating to definitions relative to emergency protection of
3858 children in certain institutions;
- 3859 (23) Code Section 49-8-3, relating to definitions relative to "The Economic
3860 Rehabilitation Act of 1975";

- 3861 (24) Code Section 50-5-69, relating to state purchases without competitive bidding; and
 3862 (25) Code Section 50-5-135, relating to the creation of the State Use Council.

3863 **SECTION 2-5.**

3864 The following Code sections of the Official Code of Georgia Annotated are amended by
 3865 replacing "Office of Aging" or "Office of Aging Section" wherever it occurs with "Division
 3866 of Aging Services":

- 3867 (1) Code Section 10-1-855, relating to referral procedures to provide intervention and
 3868 assistance for elder or disabled persons;
 3869 (2) Code Section 49-6-5, relating to the creation of the Office of Aging Section within
 3870 the Department of Human Resources; and
 3871 (3) Code Section 49-6-20, relating to the creation of the Council on Aging.

3872 **SECTION 2-6.**

3873 Code Section 10-1-395 of the Official Code of Georgia Annotated, relating to the
 3874 appointment and duties of the administrator and the creation of the Consumer Advisory
 3875 Board, is amended by revising subsection (a) as follows:

3876 "(a) The administrator shall be appointed by the Governor and shall serve at his pleasure.
 3877 The office of the administrator shall be attached to the office of the Governor for
 3878 administrative purposes only. The administrator shall perform all functions formerly
 3879 performed by the Consumer Services Unit of the Division of Special Programs of the
 3880 Department of Human Resources (now known as the Department of Human Services)."

3881 **SECTION 2-7.**

3882 Code Section 15-11-63 of the Official Code of Georgia Annotated, relating to commitment
 3883 of child 13 to 17 years of age to custody of Department of Corrections, is amended by
 3884 revising paragraph (2) of subsection (e) as follows:

- 3885 "(2) During the placement or any extension thereof:
 3886 (A) After the expiration of the period provided in subparagraph (C) of paragraph (1) of
 3887 this subsection, the child shall not be released from intensive supervision without the
 3888 written approval of the commissioner of juvenile justice or such commissioner's
 3889 designated deputy;
 3890 (B) While in a youth development center, the child may be permitted to participate in all
 3891 youth development center services and programs and shall be eligible to receive special
 3892 medical and treatment services, regardless of the time of confinement in the youth
 3893 development center. After the first six months of confinement in a youth development
 3894 center, a child may be eligible to participate in youth development center sponsored

3895 programs including community work programs and sheltered workshops under the
 3896 general supervision of a youth development center staff outside of the youth development
 3897 center; and, in cooperation and coordination with the Department of Human ~~Resources~~
 3898 Services, the child may be allowed to participate in state sponsored programs for
 3899 evaluation and services under the Division of Rehabilitation Services of the Department
 3900 of Labor and the ~~Division of Mental Health, Developmental Disabilities, and Addictive~~
 3901 ~~Diseases of the Department of Human Resources~~ Department of Behavioral Health;

3902 (C) The child shall not be discharged from the custody of the Department of Juvenile
 3903 Justice unless a motion therefor is granted by the court, which motion shall not be made
 3904 prior to the expiration of one year of custody; and

3905 (D) Unless otherwise specified in the order, the Department of Juvenile Justice shall
 3906 report in writing to the court not less than once every six months during the placement
 3907 on the status, adjustment, and progress of the child; and"

3908 SECTION 2-8.

3909 Code Section 19-15-1 of the Official Code of Georgia Annotated, relating to definitions
 3910 relative to child abuse, is amended by revising paragraph (4) as follows:

3911 "(4) 'Child protection professional' means any person who is employed by the state or a
 3912 political subdivision of the state as a law enforcement officer, school teacher, school
 3913 administrator, or school counselor or who is employed to render services to children by
 3914 the Department of Health, Department of Behavioral Health, or the Department of
 3915 Human Resources Services or any county board of health or county department of family
 3916 and children services."

3917 SECTION 2-9.

3918 Code Section 20-1A-3 of the Official Code of Georgia Annotated, relating to the
 3919 commissioner and board of the Department of Early Care and Learning, is amended by
 3920 revising subsection (d) as follows:

3921 "(d) The board shall determine policies and promulgate rules and regulations for the
 3922 operation of the department including:

3923 (1) Functions formerly performed by the Office of School Readiness, including, but not
 3924 limited to, Even Start;

3925 (2) Functions transferred to the department from the Department of Human Resources
 3926 (now known as the Department of Human Services) relating to day-care centers, group
 3927 day-care homes, family day-care homes, and other functions as agreed upon by the
 3928 department and the Department of Human Resources (now known as the Department of
 3929 Human Services) in accordance with Code Section 20-1A-8;

3930 (3) Functions transferred to the department from the Georgia Child Care Council
 3931 pursuant to Code Section 20-1A-63; and

3932 (4) Functions relating to early childhood education programs transferred from the
 3933 Department of Education by agreement in accordance with Code Section 20-1A-17."

3934 **SECTION 2-10.**

3935 Code Section 20-1A-4 of the Official Code of Georgia Annotated, relating to the powers and
 3936 duties of the Department of Early Care and Learning, is amended by revising paragraph (8)
 3937 as follows:

3938 "(8) To perform any other functions as agreed upon between the department and the
 3939 Department of Human Resources (now known as the Department of Human Services),
 3940 pursuant to Code Section 20-1A-8;"

3941 **SECTION 2-11.**

3942 Code Section 20-1A-8 of the Official Code of Georgia Annotated, relating to the transfer of
 3943 functions, powers, personnel, equipment, and assets from Department of Human Resources
 3944 to the Department of Early Care and Learning, is amended by revising subsections (a) and
 3945 (b) as follows:

3946 "(a) Effective October 1, 2004, the department shall carry out all of the functions and
 3947 exercise all of the powers formerly held by the Department of Human Resources (now
 3948 known as the Department of Human Services) for the regulation and licensure of early care
 3949 and education programs and any other functions as agreed upon by the department and the
 3950 Department of Human Resources. Subject to subsection (c) of this Code section, all
 3951 persons employed by and positions authorized for the Department of Human Resources to
 3952 perform functions relating to the licensure and certification of early care and education
 3953 programs and any other functions as agreed upon by the department and the Department
 3954 of Human Resources on September 30, 2004, shall on October 1, 2004, be transferred to
 3955 the department. All office equipment, furniture, and other assets in possession of the
 3956 Department of Human Resources which are used or held exclusively or principally by
 3957 personnel transferred under this subsection shall be transferred to the department on
 3958 October 1, 2004.

3959 (b) Effective October 1, 2004, notwithstanding the advisory functions of the Georgia Child
 3960 Care Council included in Code Section 20-1A-63, the department shall carry out the
 3961 functions and exercise the powers formerly held by the Georgia Child Care Council under
 3962 former Article 11 of Chapter 5 of Title 49. Subject to subsection (c) of this Code section,
 3963 all persons employed by and positions authorized for the Georgia Child Care Council to
 3964 perform functions relating to the recommendation of measures to improve the quality,

3965 availability, and affordability of child care in this state on September 30, 2004, shall on
 3966 October 1, 2004, be transferred to the department. All office equipment, furniture, and
 3967 other assets in possession of the Georgia Child Care Council or the Department of Human
 3968 Resources, (now known as the Department of Human Services) which are used or held
 3969 exclusively or principally by personnel transferred under this subsection shall be
 3970 transferred to the department on October 1, 2004."

3971 **SECTION 2-12.**

3972 Code Section 20-1A-9 of the Official Code of Georgia Annotated, relating to the authority
 3973 to license and regulate day-care centers, group day-care homes, and family day-care homes
 3974 transferred to the Department of Early Care and Learning, is amended as follows:

3975 "20-1A-9.

3976 The department shall succeed to all rights and responsibilities relating to licensure and
 3977 regulation of day-care centers, group day-care homes, and family day-care homes,
 3978 including such rules, regulations, policies, procedures, and pending and finalized
 3979 administrative orders of the Department of Human Resources (now known as the
 3980 Department of Human Services), the Georgia Child Care Council, and the Office of State
 3981 Administrative Hearings, where applicable, which are in effect on September 30, 2004, and
 3982 which relate to the functions transferred to the department pursuant to Code Section
 3983 20-1A-8. Such rights, responsibilities, licenses issued pursuant to previous law,
 3984 procedures, and orders shall remain in effect until amended, repealed, superseded, or
 3985 nullified by the commissioner. Such rules, regulations, and policies shall remain in effect
 3986 until amended, repealed, superseded, or nullified by the board."

3987 **SECTION 2-13.**

3988 Code Section 24-9-101, of the Official Code of Georgia Annotated, relating to definitions
 3989 relative to use of sign language and intermediary interpreter in administrative and judicial
 3990 proceedings, is amended by revising paragraph (2) as follows:

3991 "(2) 'Department' means the Department of ~~Human Resources~~ Labor."

3992 **SECTION 2-14.**

3993 Chapter 4 of Title 31 of the Official Code of Georgia Annotated, relating to the Council on
 3994 Maternal and Infant Health, is repealed in its entirety and reserved.

3995

SECTION 2-15.

3996

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

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

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SECTION 2-16.

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

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"(a) Any:

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

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

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

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

4019

SECTION 2-17.

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

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

4030 Department of Labor effective July 1, 2001. The division shall be administered by a
 4031 director appointed by the Commissioner. The policy-making functions which were vested
 4032 in the Board of Human Resources (now known as the Board of Human Services) or the
 4033 Department of Human Resources pertaining to the Division of Rehabilitation Services are
 4034 vested in the Commissioner of Labor effective July 1, 2001."

4035 **SECTION 2-18.**

4036 Code Section 40-2-86.21 of the Official Code of Georgia Annotated, relating to special
 4037 license plates promoting certain beneficial projects and supporting certain worthy agencies,
 4038 funds, or nonprofit corporations, is amended by revising paragraphs (14) and (33) of
 4039 subsection (o) as follows:

4040 "(14) A special license plate for the Thanks Mom and Dad Fund. The funds raised by the
 4041 sale of this special license plate shall be disbursed to the Department of Human Resources
 4042 Services to address the key needs of the state's older population or a nonprofit corporation
 4043 organized to serve the needs of the state's older population."

4044 "(33) A special license plate supporting programs for the treatment of autism. The funds
 4045 raised by the sale of this special license plate shall be disbursed to the Department of
 4046 ~~Human Resources~~ Behavioral Health for the support of programs for the treatment of
 4047 autism in Georgia."

4048 **SECTION 2-19.**

4049 Code Section 43-26-51 of the Official Code of Georgia Annotated, relating to the purpose
 4050 of the "Georgia Qualified Medication Aide Act," is amended as follows:

4051 "43-26-51.

4052 The purpose of this article is to protect, promote, and preserve the public health, safety, and
 4053 welfare through the delegation of certain activities performed by registered professional
 4054 nurses and licensed practical nurses to persons who are certified as qualified medication
 4055 aides and who are employed by and working in community living arrangements established
 4056 by the Department of Human Resources Services pursuant to ~~paragraphs (15) and (16)~~
 4057 paragraph (11) of subsection (b) of Code Section ~~37-1-20~~ 49-2-6."

4058 **SECTION 2-20.**

4059 Code Section 43-26-52 of the Official Code of Georgia Annotated, relating to definitions
 4060 relative to the "Georgia Qualified Medication Aide Act," is amended by revising paragraph
 4061 (3) as follows:

4062 "(3) 'Community living arrangement' means any residence, whether operated for profit or
 4063 not for profit, which undertakes through its ownership or management to provide or

4064 arrange for the provision of daily personal services, support, care, or treatment exclusively
 4065 for two or more adults who are not related to the owner or administrator by blood or
 4066 marriage which is established by the Department of Human ~~Resources~~ Services pursuant
 4067 to paragraph ~~(16)~~ (11) of subsection (b) of Code Section ~~37-1-20~~ 49-2-6 and whose
 4068 services are financially supported, in whole or part, by funds authorized through the
 4069 ~~Division of Mental Health, Developmental Disabilities, and Addictive Diseases of the~~
 4070 ~~Department of Human Resources~~ Department of Human Services. A community living
 4071 arrangement is also referred to as a 'residence.'"

4072 **SECTION 2-21.**

4073 Code Section 45-20-90 of the Official Code of Georgia Annotated, relating to definitions
 4074 relative to random drug testing of public employees in high-risk jobs, is amended by revising
 4075 paragraph (2) as follows:

4076 "(2) 'Established drug test' means the collection and testing of bodily fluids administered
 4077 in a manner equivalent to that required by the Mandatory Guidelines for Federal Workplace
 4078 Drug Testing Programs (HHS Regulations 53 Fed. Reg. 11979, et seq., as amended) or
 4079 other professionally valid procedures approved by the ~~commissioner of human resources~~
 4080 State Personnel Board."

4081 **SECTION 2-22.**

4082 Code Section 46-1-5 of the Official Code of Georgia Annotated, relating to duties of the
 4083 Department of Human Resources with regard to assistance to low or fixed income consumers
 4084 of gas and electric service, is amended as follows:

4085 "46-1-5.

4086 By March 2, 1982, the Department of Human Resources (now known as the Department
 4087 of Human Services) shall develop a program to identify those low or fixed income
 4088 consumers of gas and electric utility service who, in the department's opinion, should
 4089 benefit from public assistance in paying their bills for gas and electric service. The
 4090 department shall also establish an efficient and economical method for distributing to such
 4091 consumers all public assistance funds which will be made available, whether by
 4092 appropriations of state or federal funds, grants, or otherwise. All gas and electric utilities
 4093 shall cooperate fully with the department in developing and implementing its program.
 4094 Nothing in this Code section shall limit the commission's authority to order regulatory
 4095 alternatives which assist low or fixed income ratepayers."

SECTION 2-23.

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.

4131 (3) 'Debtor' means any individual owing money to or having a delinquent account with
 4132 any claimant agency, which obligation has not been adjudicated as satisfied by court
 4133 order, set aside by court order, or discharged in bankruptcy.

4134 (4) 'Refund' means the Georgia income tax refund which the department determines to
 4135 be due any individual taxpayer."

4136 SECTION 2-24.

4137 Code Section 49-4A-5 of the Official Code of Georgia Annotated, relating to transfer of
 4138 functions and employees of the Division of Youth Services, is amended by revising
 4139 subsection (b) as follows:

4140 "(b) Any employees of the Department of Juvenile Justice who became so employed by
 4141 virtue of their transfer from the Division of Youth Services of the Department of Human
 4142 Resources (now known as the Department of Human Services) on June 30, 1992, shall
 4143 retain their compensation and benefits and such may not be reduced. Transferred
 4144 employees who were subject to the State Merit System of Personnel Administration shall
 4145 retain all existing rights under the State Merit System of Personnel Administration.
 4146 Retirement rights of such transferred employees existing under the Employees' Retirement
 4147 System of Georgia or other public retirement systems on July 1, 1992, shall not be impaired
 4148 or interrupted by the transfer of such employees and membership in any such retirement
 4149 system shall continue in the same status possessed by the transferred employees on June
 4150 30, 1992. Accrued annual and sick leave possessed by said employees on June 30, 1992,
 4151 shall be retained by said employees as employees of the department."

4152 SECTION 2-25.

4153 Code Section 49-5-60 of the Official Code of Georgia Annotated, relating to definitions
 4154 relative to employees' record checks for day-care centers, is amended by revising paragraph
 4155 (1) as follows:

4156 "(1) 'Center' means a ~~child-caring institution or child-placing agency~~ child welfare
 4157 agency, as defined in subsection (a) of Code Section 49-5-12, which is required to be
 4158 licensed or registered under Article 1 of this chapter."

4159 SECTION 2-26.

4160 Code Section 49-5-69.1 of the Official Code of Georgia Annotated, relating to fingerprint
 4161 and preliminary records check for foster homes, is amended as follows:

4162 "49-5-69.1.

4163 (a) No licensed ~~child-placing agency~~ child welfare agency, as defined in ~~this chapter~~
 4164 subsection (a) of Code Section 49-5-12, shall place a child in a foster care home unless the

4165 foster parent or parents of the home and other adult persons that reside in the home or
4166 provide care to children placed in the home have received a satisfactory preliminary
4167 records check determination. Additionally, no child shall continue to be placed in such
4168 foster care home unless the foster parent or parents also subsequently receive a satisfactory
4169 fingerprint records check determination. A ~~child-placing agency~~ child welfare agency or
4170 any applicant for a license for such an agency shall be required to submit to the department
4171 a preliminary records check application and a records check application for the foster
4172 parent or parents of any foster care home used by the agency and a preliminary records
4173 check application for any other adult persons that reside in the home or provide care to
4174 children placed in the home. In lieu of such applications, the agency or license applicant
4175 may submit evidence, satisfactory to the department, that within the immediately preceding
4176 12 months such foster parent or parents or other adult persons have received a satisfactory
4177 fingerprint records check determination or a satisfactory preliminary records check
4178 determination.

4179 (b) After receiving or obtaining the fingerprint records check determinations or the
4180 preliminary records check determinations, the department shall notify in writing the agency
4181 or license applicant as to each person for whom an application was received regarding
4182 whether the department's determinations were satisfactory or unsatisfactory. If any such
4183 determinations are unsatisfactory, such homes shall not be used by the ~~child-placing agency~~
4184 child welfare agency as foster care homes.

4185 (c) The department shall have the authority to take any of the actions enumerated in
4186 subsection (c) of Code Section ~~31-2-6~~ 49-2-17 if a licensed ~~child-placing agency~~ child
4187 welfare agency or an applicant for such a license violates any provision of this Code
4188 section.

4189 (d) An executive director of a ~~child-placing agency~~ child welfare agency that uses a foster
4190 care home with a foster parent or parents or other adult persons referenced in this Code
4191 section whom the executive director knows or should reasonably know to have a criminal
4192 record shall be guilty of a misdemeanor.

4193 (e) In addition to any other requirement established by law, the submission of fingerprints
4194 shall be a prerequisite to the issuance of a license or authorization for the operation of a
4195 foster home or to serve as foster parents as provided in this article. Such fingerprints shall
4196 be used for the purposes of fingerprint checks by the Georgia Crime Information Center
4197 and the Federal Bureau of Investigation."

SECTION 2-27.

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

"49-6-84.

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

SECTION 2-28.

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

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

SECTION 2-29.

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

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

4232 purposes) as of February 8, 1994, shall not have to undergo the certification evaluation and
 4233 approval process until 24 months from February 8, 1994;"

4234 **PART III**
 4235 Department of Behavioral Health.

4236 **SECTION 3-1.**

4237 Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by
 4238 revising Chapter 1 and Article 1 of Chapter 2, relating to general provisions and
 4239 administration of mental health, developmental disabilities, addictive diseases, and other
 4240 disability services, respectively, as follows:

4241 "CHAPTER 1
 4242 ARTICLE 1

4243 37-1-1.

4244 As used in this title, the term:

- 4245 (1) 'Addictive disease' means ~~the abuse of, addiction to, or dependence upon alcohol or~~
 4246 ~~other drugs and includes substance abuse~~ a chronic, often relapsing, brain disease that
 4247 causes compulsive alcohol or drug seeking and use despite harmful consequences to the
 4248 individual who is addicted and to those around him or her.
- 4249 (2) 'Board' means the Board of ~~Human Resources~~ Behavioral Health.
- 4250 (3) 'Commissioner' means the commissioner of ~~human resources~~ behavioral health.
- 4251 (4) 'Community service board' means a public mental health, developmental disabilities,
 4252 and addictive diseases board established pursuant to Code Section 37-2-6.
- 4253 (5) 'Consumer' means a natural person who has been or is a recipient of disability
 4254 services ~~as defined in Code Section 37-2-2.~~
- 4255 (6) 'County board of health' means a county board of health established in accordance
 4256 with Chapter 3 of Title 31 and includes its duly authorized agents.
- 4257 (7) 'Department' means the Department of ~~Human Resources~~ Behavioral Health and
 4258 includes its duly authorized agents and designees.
- 4259 (8) ~~'Division' means the Division of Mental Health, Developmental Disabilities, and~~
 4260 ~~Addictive Diseases.~~
- 4261 (8) 'Developmental disability' means a severe, chronic disability of an individual that:
 4262 (A) Is attributable to a mental, cognitive, or physical impairment, or any combination
 4263 of mental, cognitive, and physical impairments;

- 4264 (B) Is manifested before the individual attains age 22 except in cases of traumatic brain
 4265 injury when age is not a variable;
- 4266 (C) Is likely to continue indefinitely;
- 4267 (D) Results in substantial functional limitations in three or more of the following areas
 4268 of major life activities:
- 4269 (i) Self-care;
 4270 (ii) Receptive and expressive language;
 4271 (ii) Learning;
 4272 (iv) Mobility;
 4273 (v) Self-direction;
 4274 (vi) Capacity for independent living; and
 4275 (vii) Economic self-sufficiency; and
- 4276 (E) Reflects the person's need for a combination and sequence of special,
 4277 interdisciplinary, or generic services, individualized supports, or other forms of
 4278 assistance which are of lifelong or extended duration and are individually planned and
 4279 coordinated.
- 4280 When applied to infants and young children, the term means individuals from birth to age
 4281 nine years, inclusive, who have substantial developmental delay or specific congenital
 4282 or acquired conditions with a high probability of resulting in developmental disabilities
 4283 if services or supports are not provided.
- 4284 (9) 'Disability' means:
- 4285 (A) Mental or emotional illness;
 4286 (B) Developmental disability; or
 4287 (C) Addictive disease.
- 4288 (10) 'Disability services' means services to the disabled or services which are designed
 4289 to prevent or ameliorate the effect of a disability.
- 4290 (11) 'Disabled' means any person or persons having a disability.
- 4291 (12) 'Mentally ill' means having a mental illness.
- 4292 (13) 'Mental illness' means all diagnosable mental disorders, which includes all health
 4293 conditions that are characterized by alterations in thinking, mood, or behavior, or a
 4294 combination thereof.
- 4295 ~~(9)~~(14) 'Peace officer' means any federal, city, or county police officer, any officer of the
 4296 Georgia State Patrol, or any sheriff or deputy sheriff.
- 4297 ~~(10)~~(15) 'Penal offense' means a violation of a law of the United States, this state, or a
 4298 political subdivision thereof for which the offender may be confined in a state prison or
 4299 a city or county jail or any other penal institution.

- 4300 ~~(11)~~(16) 'Physician' means any person duly authorized to practice medicine in this state
 4301 under Chapter 34 of Title 43.
- 4302 ~~(12)~~(17) 'Psychologist' means any person authorized under the laws of this state to
 4303 practice as a licensed psychologist as set forth in paragraph (3) of Code Section 43-39-1.
- 4304 ~~(13)~~(18) 'Regional board' means a regional ~~mental health, mental retardation, and~~
 4305 ~~substance abuse~~ board established in accordance with Code Section 37-2-4.1 as that Code
 4306 section existed on June 30, 2002.
- 4307 ~~(14)~~(19) 'Regional coordinator' means an employee of the department who acts as the
 4308 department's agent and designee to manage community ~~and hospital~~ services for
 4309 consumers of disability services within a mental health, developmental disabilities, and
 4310 addictive diseases region established in accordance with Code Section 37-2-3.
- 4311 ~~(15)~~(20) 'Regional office' means a ~~Division of Mental Health, Developmental~~
 4312 ~~Disabilities, and Addictive Diseases of the Department of Human Resources~~ an office
 4313 created pursuant to Code Section 37-2-4.1. Such office shall be an office of the
 4314 department and serve as the entity for the administration of disability services in a region.
- 4315 ~~(16)~~(21) 'Regional planning board' means a ~~mental health, developmental disabilities,~~
 4316 ~~and addictive diseases~~ planning board established in accordance with Code Section
 4317 37-2-4.1.
- 4318 ~~(17)~~(22) 'Regional services administrator' means an employee of the department who,
 4319 under the supervision of the regional coordinator, manages the purchase or authorization
 4320 of services, or both, for consumers of disability services, the assessment and coordination
 4321 of services, and ongoing monitoring and evaluation of services provided within a ~~mental~~
 4322 ~~health, developmental disabilities, and addictive diseases~~ region established in
 4323 accordance with Code Section 37-2-3.
- 4324 ~~(18)~~(23) 'Regional state hospital administrator' means the chief administrative officer of
 4325 a state owned or state operated hospital and the state owned or operated community
 4326 programs in a region. The regional state hospital administrator, ~~under the supervision of~~
 4327 ~~the regional coordinator,~~ has overall management responsibility for the regional state
 4328 hospital and manages services provided by employees of the regional state hospital and
 4329 employees of state owned or operated community programs within a mental health,
 4330 developmental disabilities, and addictive diseases region established in accordance with
 4331 Code Section 37-2-3.
- 4332 ~~(19)~~(24) 'Resident' means a person who is a legal resident of the State of Georgia.
- 4333 37-1-2.
- 4334 (a) The General Assembly finds that the state has a need to continually improve its system
 4335 for providing effective, efficient, and quality mental health, developmental disability, and

4336 addictive disease services. ~~The General Assembly also finds that the needs of the publicly~~
4337 ~~funded mental health, developmental disability, and addictive disease system and the state~~
4338 ~~can best be met through reorganizing the regional mental health, mental retardation, and~~
4339 ~~substance abuse boards and certain functions of the Department of Human Resources.~~
4340 Further, the General Assembly finds that a comprehensive range of quality services and
4341 opportunities is vitally important to the existence and well-being of individuals with mental
4342 health, developmental disability, or addictive disease needs and their families. The General
4343 Assembly further finds that the state has an obligation and a responsibility to develop and
4344 implement planning and service delivery systems which focus on a core set of consumer
4345 oriented, community based values and principles which include, but are not limited to, the
4346 following:

- 4347 (1) Consumers and families should have choices about services and providers and should
4348 have substantive input into the planning and delivery of all services;
- 4349 (2) A single point of accountability should exist for fiscal, service, and administrative
4350 issues to ensure better coordination of services among all programs and providers and to
4351 promote cost-effective, efficient service delivery and administration;
- 4352 (3) The system should be appropriately comprehensive and adaptive to allow consumers
4353 and their families to access the services they desire and need;
- 4354 (4) Public programs are the foundation of the service planning and delivery system and
4355 they should be valued and nurtured; at the same time, while assuring comparable
4356 standards of quality, private sector involvement should be increased to allow for
4357 expanded consumer choice and improved cost effectiveness;
- 4358 (5) Planning should reside begin at the local level, ~~with the primary authority vested in~~
4359 and include local government, consumers, families, advocates, and other interested local
4360 parties;
- 4361 (6) The system should ensure that the needs of consumers who are most in need are met
4362 at the appropriate service levels; at the same time, prevention strategies should be
4363 emphasized for those disabilities which are known to be preventable;
- 4364 (7) The system should be designed to provide the highest quality of services utilizing
4365 flexibility in funding, incentives, and outcome evaluation techniques which reinforce
4366 quality, accountability, efficiency, and consumer satisfaction;
- 4367 (8) The functions of service planning, coordination, contracting, resource allocation, and
4368 consumer assessment should be separated from the actual treatment, habilitation, and
4369 prevention services provided by contractors;
- 4370 (9) Consumers and families should have a single, community based point of entry into
4371 the system;

4372 (10) Consumers, staff, providers, and regional planning board and community service
 4373 board members should receive ongoing training and education and should have access
 4374 to key management resources such as information systems and technical and professional
 4375 support services; and

4376 (11) The department is responsible for ensuring the appropriate use of state, federal, and
 4377 other funds to provide quality services for individuals with mental health, developmental
 4378 disabilities, or addictive disease needs who are served by the public system and to protect
 4379 consumers of these services from abuse and maltreatment.

4380 (b) Local governments, specifically county governing authorities, have provided
 4381 outstanding leadership and support for mental health, developmental disability, and
 4382 addictive disease programs, and the General Assembly finds that their investments, both
 4383 personal and capital, should be valued and utilized in any improved system. As such, the
 4384 state and any new governing structure should take special precautions to ensure that the
 4385 county governing authorities have an expanded level of input into decision making and
 4386 resource allocation and that any services or programs should continue to use and expand
 4387 their use of county facilities and resources wherever appropriate and possible.

4388 (c) The purpose of this chapter and Chapter 2 of this title is to provide for a comprehensive
 4389 and improved mental health, developmental disability, and addictive disease services
 4390 planning and delivery system in this state which will develop and promote the essential
 4391 public interests of the state and its citizens. The provisions of this chapter and Chapter 2
 4392 of this title shall be liberally construed to achieve their purposes.

4393 37-1-3.

4394 (a) There is created the Board of Behavioral Health which shall establish the general
 4395 policy to be followed by the Department of Behavioral Health. The powers, functions, and
 4396 duties of the Board of Human Resources as they existed on June 30, 2009, with regard to
 4397 the Division of Mental Health, Developmental Disabilities, and Addictive Diseases are
 4398 transferred to the Board of Behavioral Health effective July 1, 2009. The board shall
 4399 consist of nine members appointed by the Governor and confirmed by the Senate.

4400 (b) The Governor shall designate the initial terms of the members of the board as follows:
 4401 three members shall be appointed for one year; three members shall be appointed for two
 4402 years; and three members shall be appointed for three years. Thereafter, all succeeding
 4403 appointments shall be for three-year terms from the expiration of the previous term.

4404 (c) Vacancies in office shall be filled by appointment by the Governor in the same manner
 4405 as the appointment to the position on the board which becomes vacant. An appointment
 4406 to fill a vacancy other than by expiration of a term of office shall be for the balance of the
 4407 unexpired term.

4408 (d) Members of the board may be removed from office under the same conditions for
4409 removal from office of members of professional licensing boards provided in Code Section
4410 43-1-17.

4411 (e) There shall be a chairperson of the board elected by and from the membership of the
4412 board who shall be the presiding officer of the board.

4413 (f) The members of the board shall receive a per diem allowance and expenses as shall be
4414 set and approved by the Office of Planning and Budget in conformance with rates and
4415 allowances set for members of other state boards.

4416 37-1-4.

4417 (a) There is created a Department of Behavioral Health. The powers, functions, and duties
4418 of the Department of Human Resources as they existed on June 30, 2009, relating to the
4419 Division of Mental Health, Developmental Disabilities, and Addictive Diseases are
4420 transferred to the Department of Behavioral Health effective July 1, 2009.

4421 (b) There is created the position of commissioner of behavioral health. The commissioner
4422 shall be the chief administrative officer of the department and be both appointed and
4423 removed by the board, subject to the approval of the Governor. Subject to the general
4424 policy established by the board, the commissioner shall supervise, direct, account for,
4425 organize, plan, administer, and execute the functions vested in the department.

4426 (c) There shall be created in the department such divisions as may be found necessary for
4427 its effective operation. The commissioner shall have the power to allocate and reallocate
4428 functions among the divisions within the department.

4429 37-1-5.

4430 (a) The Department of Behavioral Health shall succeed to all rules, regulations, policies,
4431 procedures, and administrative orders of the Department of Human Resources that are in
4432 effect on June 30, 2009, or scheduled to go into effect on or after July 1, 2009, and which
4433 relate to the functions transferred to the Department of Behavioral Health pursuant to Code
4434 Section 37-1-4 and shall further succeed to any rights, privileges, entitlements, obligations,
4435 and duties of the Department of Human Resources that are in effect on June 30, 2009,
4436 which relate to the functions transferred to the Department of Behavioral Health pursuant
4437 to Code Section 37-1-4. Such rules, regulations, policies, procedures, and administrative
4438 orders shall remain in effect until amended, repealed, superseded, or nullified by the
4439 Department of Behavioral Health by proper authority or as otherwise provided by law.

4440 (b) The rights, privileges, entitlements, and duties of parties to contracts, leases,
4441 agreements, and other transactions entered into before July 1, 2009, by the Department of
4442 Human Resources which relate to the functions transferred to the Department of Behavioral

4443 Health pursuant to Code Section 37-1-4 shall continue to exist; and none of these rights,
 4444 privileges, entitlements, and duties are impaired or diminished by reason of the transfer of
 4445 the functions to the Department of Behavioral Health. In all such instances, the
 4446 Department of Behavioral Health shall be substituted for the Department of Human
 4447 Resources, and the Department of Behavioral Health shall succeed to the rights and duties
 4448 under such contracts, leases, agreements, and other transactions.

4449 (c) All persons employed by the Department of Human Resources in capacities which
 4450 relate to the functions transferred to the Department of Behavioral Health pursuant to Code
 4451 Section 37-1-4 on June 30, 2009, shall, on July 1, 2009, become employees of the
 4452 Department of Behavioral Health in similar capacities, as determined by the commissioner
 4453 of behavioral health. Such employees shall be subject to the employment practices and
 4454 policies of the Department of Behavioral Health on and after July 1, 2009, but the
 4455 compensation and benefits of such transferred employees shall not be reduced as a result
 4456 of such transfer. Employees who are subject to the rules of the State Personnel Board and
 4457 thereby under the State Merit System of Personnel Administration and who are transferred
 4458 to the department shall retain all existing rights under the State Merit System of Personnel
 4459 Administration. Retirement rights of such transferred employees existing under the
 4460 Employees' Retirement System of Georgia or other public retirement systems on June 30,
 4461 2009, shall not be impaired or interrupted by the transfer of such employees and
 4462 membership in any such retirement system shall continue in the same status possessed by
 4463 the transferred employees on June 30, 2009. Accrued annual and sick leave possessed by
 4464 said employees on June 30, 2009, shall be retained by said employees as employees of the
 4465 Department of Behavioral Health.

4466 (d) On July 1, 2009, the Department of Behavioral Health shall receive custody of the state
 4467 owned real property in the custody of the Department of Human Resources on June 30,
 4468 2009, and which pertains to the functions transferred to the Department of Behavioral
 4469 Health pursuant to Code Section 37-1-4.

4470 ARTICLE 2

4471 37-1-20.

4472 ~~(a) The Division of Mental Health, Developmental Disabilities, and Addictive Diseases~~
 4473 ~~shall be a division of the department and shall be managed by a director whose~~
 4474 ~~qualifications meet standards set by the board.~~

4475 ~~(b) The department, through the division, shall:~~

- 4476 (1) Establish, administer, and supervise the state programs for mental health,
 4477 developmental disabilities, and addictive diseases;

4478 (2) Direct, supervise, and control the medical and physical care; and treatment, and
 4479 rehabilitation; recovery; and social, employment, housing, and community supports and
 4480 services based on single or co-occurring diagnoses provided by the institutions,
 4481 contractors, and programs under its control, management, or supervision;

4482 (3) Plan for and implement the coordination of mental health, developmental disability,
 4483 and addictive disease services with physical health services, and the prevention of any of
 4484 these diseases or conditions, and develop and promulgate rules and regulations to require
 4485 that all health services be coordinated and that the public and private providers of any of
 4486 these services that receive state support notify other providers of services to the same
 4487 patients of the conditions, treatment, and medication regimens each provider is
 4488 prescribing and delivering;

4489 (4) Ensure that providers of mental health, developmental disability, or addictive disease
 4490 services coordinate with providers of primary and specialty health care so that treatment
 4491 of conditions of the brain and the body can be integrated to promote recovery, health, and
 4492 well-being;

4493 ~~(3)~~(5) Have authority to contract for services with community service boards, private
 4494 agencies, and other public entities for the provision of services within a service area so
 4495 as to provide an adequate array of services; and choice of providers for consumers; and
 4496 to comply with the applicable federal laws, rules, and regulations related to public or
 4497 private hospitals; hospital authorities; medical schools and training and educational
 4498 institutions; departments and agencies of this state; county or municipal governments;
 4499 any person, partnership, corporation, or association, whether public or private; and the
 4500 United States government or the government of any other state;

4501 ~~(4)~~(6) Establish and support programs for the training of professional and technical
 4502 personnel as well as regional planning boards and community service boards;

4503 ~~(5)~~(7) Have authority to conduct research into the causes and treatment of disability and
 4504 into the means of effectively promoting mental health and addictive disease recovery;

4505 ~~(6)~~(8) Assign specific responsibility to one or more units of the ~~division~~ department for
 4506 the development of a disability prevention program. The objectives of such program
 4507 shall include, but are not limited to, monitoring of completed and ongoing research
 4508 related to the prevention of disability, implementation of programs known to be
 4509 preventive, and testing, where practical, of those measures having a substantive potential
 4510 for the prevention of disability;

4511 ~~(7)~~(9) Establish a system for regional administration of mental health, developmental
 4512 disability, and addictive disease services in institutions and in the community ~~under the~~
 4513 ~~supervision of a regional coordinator;~~

4514 ~~(8)~~(10) Make and administer budget allocations to regional offices ~~of the division~~
4515 established by the board pursuant to Code Section 37-2-4.1 to fund the operation of
4516 mental health, developmental disabilities, and addictive diseases facilities and programs;
4517 ~~(9)~~(11) Coordinate in consultation with providers, professionals, and other experts the
4518 development of appropriate outcome measures for client centered service delivery
4519 systems;

4520 ~~(10)~~(12) Establish, operate, supervise, and staff programs and facilities for the treatment
4521 of disabilities throughout this state;

4522 ~~(11)~~(13) Disseminate information about available services and the facilities through
4523 which such services may be obtained;

4524 ~~(12)~~(14) Supervise the regional office's exercise of its responsibility and authority
4525 concerning funding and delivery of disability services;

4526 ~~(13)~~(15) Supervise the regional offices concerning the receipt and administration of
4527 grants, gifts, moneys, and donations for purposes pertaining to mental health,
4528 developmental disabilities, and addictive diseases;

4529 ~~(14)~~(16) Supervise the ~~regional offices concerning making~~ administration of contracts
4530 with any hospital, community service board, or any public or private providers without
4531 regard to regional or state boundaries for the provision of disability services and in
4532 making and entering into all contracts necessary or incidental to the performance of the
4533 duties and functions of the ~~division~~ department and the regional offices;

4534 ~~(15)~~(17) Regulate the delivery of care, including behavioral interventions and medication
4535 administration by licensed staff, or certified staff as determined by the ~~division~~
4536 department, within residential settings serving only persons who are receiving services
4537 authorized or financed, in whole or in part, by the ~~division~~; department;

4538 ~~(16)~~ Classify 'community living arrangements' and 'host homes' for persons whose
4539 services are financially supported, in whole or in part, by funds authorized through the
4540 Division of Mental Health, Developmental Disabilities, and Addictive Diseases of the
4541 Department of Human Resources. As used in this Code section, the term:

4542 (A) 'Community living arrangement' means any residence, whether operated for profit
4543 or not, which undertakes through its ownership or management to provide or arrange
4544 for the provision of housing, food, one or more personal services, supports, care, or
4545 treatment exclusively for two or more persons who are not related to the owner or
4546 administrator of the residence by blood or marriage.

4547 (B) 'Host home' means a private residence in a residential area in which the occupant
4548 owner or lessee provides housing and provides or arranges for the provision of food,
4549 one or more personal services, supports, care, or treatment exclusively for one or two
4550 persons who are not related to the occupant owner or lessee by blood or marriage. A

4551 ~~host home shall be occupied by the owner or lessee, who shall not be an employee of~~
 4552 ~~the same community provider which provides the host home services by contract with~~
 4553 ~~the division. The division shall approve and enter into agreements with community~~
 4554 ~~providers which, in turn, contract with host homes. The occupant owner or lessee shall~~
 4555 ~~not be the guardian of any person served or of their property nor the agent in such~~
 4556 ~~person's advance directive for health care. The placement determination for each~~
 4557 ~~person placed in a host home shall be made according to such person's choice as well~~
 4558 ~~as the individual needs of such person in accordance with the requirements of Code~~
 4559 ~~Section 37-3-162, 37-4-122, or 37-7-162, as applicable to such person; and~~

4560 ~~(17) Provide guidelines for and oversight of host homes, which may include, but not be~~
 4561 ~~limited to, criteria to become a host home, requirements relating to physical plants and~~
 4562 ~~supports, placement procedures, and ongoing oversight requirements.~~

4563 ~~(c) The department shall:~~

4564 ~~(1)(18) Establish a unit of the department which shall receive and consider complaints~~
 4565 ~~from individuals receiving services, make recommendations to the director of the division~~
 4566 ~~commissioner regarding such complaints, and ensure that the rights of individuals~~
 4567 ~~receiving services are fully protected;~~

4568 ~~(19) With respect to housing opportunities for persons with mental illness and~~
 4569 ~~co-occurring disorders:~~

4570 ~~(A) Coordinate the department's programs and services with other state agencies and~~
 4571 ~~housing providers;~~

4572 ~~(B) Facilitate partnerships with local communities;~~

4573 ~~(C) Educate the public on the need for supportive housing;~~

4574 ~~(D) Collect information on the need for supportive housing and monitor the benefit of~~
 4575 ~~such housing; and~~

4576 ~~(E) Identify and determine best practices for the provision of services connected to~~
 4577 ~~housing;~~

4578 ~~(2)(20) Exercise all powers and duties provided for in this title or which may be deemed~~
 4579 ~~necessary to effectuate the purposes of this title; and~~

4580 ~~(3)(21) Assign specific responsibility to one or more units of the division department for~~
 4581 ~~the development of programs designed to serve disabled infants, children, and youth. To~~
 4582 ~~the extent practicable, such units shall cooperate with the Georgia Department of~~
 4583 ~~Education and the University System of Georgia in developing such programs; and~~

4584 ~~(4) Classify and license community living arrangements, as defined in paragraph (16) of~~
 4585 ~~subsection (b) of this Code section, in accordance with the rules and regulations~~
 4586 ~~promulgated by the department for the licensing of community living arrangements and~~
 4587 ~~the enforcement of licensing requirements. To be eligible for licensing as a community~~

4588 ~~living arrangement, the residence and services provided must be integrated within the~~
 4589 ~~local community. All community living arrangements licensed by the department shall~~
 4590 ~~be subject to the provisions of Code Sections 31-2-6 and 31-7-2.2. No person, business~~
 4591 ~~entity, corporation, or association, whether operated for profit or not for profit, may~~
 4592 ~~operate a community living arrangement without first obtaining a license or provisional~~
 4593 ~~license from the department. A license issued under this article is not assignable or~~
 4594 ~~transferable.~~

4595 37-1-21.

4596 (a) The department is designated and empowered as the agency of this state responsible
 4597 for supervision and administrative control of: state facilities for the treatment of mental
 4598 illness or the habilitation and treatment of individuals with developmental disabilities; ~~state~~
 4599 ~~hospitals for the treatment of tubercular patients;~~ programs for the care, custody, and
 4600 treatment of addictive disease; and other facilities, institutions, or programs which now or
 4601 hereafter come under the supervision and administrative control of the department. With
 4602 respect to all such facilities, institutions, or programs the department shall have the
 4603 following powers and duties:

4604 (1) To create all necessary offices, appoint and remove all officers of such facilities,
 4605 institutions, or programs, prescribe and change the duties of such officers from time to
 4606 time, and fix their salaries as provided for by the pay plan covering positions under the
 4607 State Merit System of Personnel Administration and in accordance with rules and
 4608 regulations of the State Personnel Board, except that the commissioner shall not be
 4609 subject to the State Merit System of Personnel Administration or the rules and regulations
 4610 of the State Personnel Board. The department shall discharge and cause to be prosecuted
 4611 any officer or other person who shall assault any patient in any of such facilities or
 4612 institutions or who shall knowingly use toward any such patient any other or greater force
 4613 than the occasion may require;

4614 (2) To refuse or accept and hold in trust for any such facility, institution, or program any
 4615 grant or devise of land or bequest or donation of money or other property for the
 4616 particular use specified or, if no use is specified, for the general use of such facility,
 4617 institution, or program;

4618 (3) To bring suit in its name for any claims which any such facility or institution may
 4619 have, however arising;

4620 (4) To appoint police of such facilities, institutions, or programs who are authorized,
 4621 while on the grounds or in the buildings of the respective facilities, institutions, or
 4622 programs to make arrests with the same authority, power, privilege, and duties as the
 4623 sheriffs of the respective counties in which such facilities, institutions, or programs are

4624 situated. If because of the contagious or infectious nature of the disease of persons
 4625 arrested facilities are not available for their detention, such police shall be authorized to
 4626 confine such persons within the respective facilities, institutions, or programs pending
 4627 trial as provided in other cases. After trial and conviction of any such person, he or she
 4628 shall be sentenced to serve his or her term of sentence in the secured ward of the facility,
 4629 institution, or program; and

4630 (5) To have full authority to receive patients ordered admitted to such facilities,
 4631 institutions, or programs pursuant to any law, to receive any voluntary patients, to
 4632 discharge such patients pursuant to law, to contract with patients or other persons acting
 4633 on behalf of patients or legally responsible therefor, and in general to exercise any power
 4634 or function with respect to patients provided by law. It is the intent of the General
 4635 Assembly to provide always the highest quality of diagnosis, treatment, custody, and care
 4636 consistent with medical, therapeutic, and habilitative evidence based practice and
 4637 knowledge. It is the further intent of the General Assembly that the powers and duties
 4638 of the department with respect to patients shall be administered by persons properly
 4639 trained professionally for the exercise of their duties, consistent with the intention
 4640 expressed in this Code section.

4641 (b) The board is empowered to prescribe all rules and regulations for the management of
 4642 such facilities, institutions, and programs not conflicting with the law.

4643 37-1-22.

4644 The board shall adopt and promulgate written rules, regulations, and standards as may be
 4645 deemed necessary to effectuate the purposes of this title and which shall be the basis of
 4646 state financial participation in mental health, developmental disabilities, and addictive
 4647 diseases programs.

4648 37-1-23.

4649 The board is directed to prescribe rules of practice and procedure in order to implement this
 4650 chapter. The department ~~and the division are~~ is directed to make the board's and the
 4651 department's rules available for distribution.

4652 37-1-24.

4653 No provision in this title shall require the department or any facility or private facility or
 4654 any community service board to utilize a physician in lieu of a psychologist or a
 4655 psychologist in lieu of a physician in performing functions under this title even though this
 4656 title authorizes either a physician or a psychologist to perform the function.

37-1-25.

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

37-1-26.

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

(b) It is not the intention of this Code section to encourage competition in any way by the state, its institutions, agencies, departments or branches, or other subdivisions with the individual, private farmers of this state, or others, in the production and sale of agricultural or industrial commodities or products in due course of commerce.

37-1-27.

(a) The General Assembly makes the following findings:

(1) Every year in Georgia, approximately 850 people die from suicide;

(2) More Georgians die from suicide than from homicide;

(3) More teenagers and young adults die from suicide than from cancer, heart disease, AIDS, birth defects, stroke, pneumonia, influenza, and chronic lung disease combined;

(4) Many who attempt suicide do not seek professional help after the attempt;

(5) In Georgia, three out of four suicide deaths involve a firearm;

(6) Factors such as aging, drug and alcohol abuse, unemployment, mental illness, isolation, and bullying in school contribute to causes of suicide; and

(7) Education is necessary to inform the public about the causes of suicide and the early intervention programs that are available.

(b) There is created the Suicide Prevention Program to be managed by the department.

(c) The department, in implementing the Suicide Prevention Program, shall:

(1) Establish a link between state agencies and offices, including but not limited to the Division of Aging Services and Division of Family and Children Services of the Department of Human Services, the Department of Health, local government agencies,

- 4691 health care providers, hospitals, nursing homes, and jails to collect data on suicide deaths
 4692 and attempted suicides;
 4693 (2) Work with public officials to improve firearm safety;
 4694 (3) Improve education for nurses, judges, physician assistants, social workers,
 4695 psychologists, and other counselors with regard to suicide education and prevention and
 4696 expand educational resources for professionals working with those persons most at risk
 4697 of suicide;
 4698 (4) Provide training and minimal screening tools for clergy, teachers and other
 4699 educational staff, and correctional workers on how to identify and respond to persons at
 4700 risk of suicide;
 4701 (5) Provide educational programs for family members of persons at an elevated risk of
 4702 suicide;
 4703 (6) Develop standardized protocols to be used by the department in reviewing suicide
 4704 death scene investigations;
 4705 (7) Work to increase the number of follow-back studies of suicides;
 4706 (8) Work to increase the number of hospitals that code for external causes of injury;
 4707 (9) Implement a state-wide reporting system for reporting suicides;
 4708 (10) Support pilot projects to link and analyze information on self-destructive behavior
 4709 from various, distinct data systems; and
 4710 (11) Perform such other tasks as deemed appropriate to further suicide education and
 4711 prevention in Georgia.
 4712 (d) The Suicide Prevention Program shall be provided staff to consist of a full-time
 4713 coordinator, half-time data analyst/epidemiologist, and administrative support, all subject
 4714 to available funding.

4715 ARTICLE 3

4716 37-1-40.

4717 All rules and regulations of the Board of ~~Human Resources~~ Behavioral Health shall be
 4718 adopted pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

4719 ARTICLE 4

4720 37-1-50.

4721 (a) No license, permit, or certificate or other similar right shall be revoked or suspended
 4722 without opportunity for a hearing as provided in Chapter 13 of Title 50, the 'Georgia

4723 Administrative Procedure Act.' Any such hearing or appeal related thereto shall be
4724 conducted in accordance with such Act.

4725 (b) The department is authorized and empowered to employ and appoint hearing
4726 examiners to conduct hearings, issue compulsory process, administer oaths, and submit
4727 their findings and recommendations to the appointing agency; provided, however, that any
4728 such examiner shall be a member of the State Bar of Georgia in good standing.

4729 37-1-51.

4730 Reserved.

4731 37-1-52.

4732 Reserved.

4733 37-1-53.

4734 Notwithstanding any other provision of law to the contrary, the department is authorized
4735 by regulation to classify as confidential and privileged documents, reports, and other
4736 information and data obtained by them from persons, firms, corporations, municipalities,
4737 counties, and other public authorities and political subdivisions where such matters relate
4738 to secret processes, formulas, and methods or where such matters were obtained or
4739 furnished on a confidential basis. All matters so classified shall not be subject to public
4740 inspection or discovery and shall not be subject to production or disclosure in any court of
4741 law or elsewhere until and unless the judge of the court of competent jurisdiction, after in
4742 camera inspection, determines that the public interest requires such production and
4743 disclosure or that such production and disclosure may be necessary in the interest of justice.
4744 This subsection shall not apply to clinical records maintained pursuant to Code Sections
4745 37-3-166, 37-3-167, 37-4-125, 37-4-126, 37-7-166, and 37-7-167.

4746 ARTICLE 5

4747 Part 1

4748 37-1-70.

4749 As used in this ~~chapter~~ part, the term:

4750 (1) 'Inspection warrant' means a warrant authorizing a search or inspection of private
4751 property where such a search or inspection is one that is necessary for the enforcement
4752 of a 'public mental health law.'

4753 (2) 'Mental health law' means Code Sections 37-3-7, 37-3-8, and 37-4-4, Chapter 6 of
4754 this title, and any rule or regulation duly promulgated thereunder.

4755 37-1-71.

4756 The commissioner or the commissioner's delegate, in addition to other procedures now or
4757 hereafter provided, may obtain an inspection warrant under the conditions specified in this
4758 chapter. Such warrant shall authorize the commissioner or the commissioner's delegate to
4759 conduct a search or inspection of property either with or without the consent of the person
4760 whose property is to be searched or inspected if such search or inspection is one that is
4761 elsewhere authorized under the rules and regulations duly promulgated under this title.

4762 37-1-72.

4763 (a) Inspection warrants shall be issued only by a judge of a court of record whose
4764 territorial jurisdiction encompasses the property to be inspected.

4765 (b) The issuing judge shall issue the warrant when ~~he~~ the judge is satisfied that the
4766 following conditions are met:

4767 (1) The one seeking the warrant must establish under oath or affirmation that the
4768 property to be inspected is to be inspected as a part of a legally authorized program of
4769 inspection which includes that property or that there is probable cause for believing that
4770 there is a condition, object, activity, or circumstance which legally justifies such an
4771 inspection of that property; and

4772 (2) The issuing judge determines that the issuance of the warrant is authorized by this
4773 chapter part.

4774 37-1-73.

4775 The inspection warrant shall be validly issued only if it meets the following requirements:

4776 (1) The warrant is attached to the affidavit required to be made in order to obtain the
4777 warrant;

4778 (2) The warrant describes either directly or by reference to the affidavit the property
4779 upon which the inspection is to occur and is sufficiently accurate that the executor of the
4780 warrant and the owner or possessor of the property can reasonably determine from it the
4781 property of which the warrant authorizes an inspection;

4782 (3) The warrant indicates the conditions, objects, activities, or circumstances which the
4783 inspection is intended to check or reveal; and

4784 (4) The warrant refers in general terms to the statutory or regulatory provisions sought
4785 to be enforced.

4786 37-1-74.
 4787 No facts discovered or evidence obtained in an inspection conducted under authority of an
 4788 inspection warrant issued pursuant to this ~~chapter~~ part shall be competent as evidence in
 4789 any criminal proceeding against any party.

4790 Part 2

4791 37-1-90.
 4792 The Department of ~~Human Resources~~ Behavioral Health is empowered to institute
 4793 appropriate proceedings for injunction in the courts of competent jurisdiction in this state
 4794 for the purpose of enjoining a violation of any provision of this title as now existing or as
 4795 may be hereafter amended or of any regulation or order duly issued by the board or
 4796 department. The department is also empowered to maintain action for injunction to abate
 4797 any public nuisance which is injurious to the public health, safety, or comfort. Such
 4798 actions may be maintained notwithstanding the fact that such violation also constitutes a
 4799 crime and notwithstanding that other adequate remedies at law exist. Such actions may be
 4800 instituted in the name of the department in the county in which a violation of any provision
 4801 of this title occurs.

4802 Part 3

4803 37-1-100.
 4804 Any person violating the provisions of this title shall be guilty of a misdemeanor.

4805 CHAPTER 2

4806 ARTICLE 1

4807 37-2-1.
 4808 (a) The State of Georgia recognizes its responsibility for its citizens who are mentally ill
 4809 or developmentally disabled including individuals with epilepsy, cerebral palsy, autism,
 4810 and other neurologically disabling conditions or who abuse alcohol, narcotics, or other
 4811 drugs and recognizes an obligation to such citizens to meet their needs through a
 4812 coordinated system of community facilities, programs, and services.
 4813 (b) It is the policy of this state to provide adequate mental health, developmental disability,
 4814 addictive disease, and other disability services to all its citizens. It is further the policy of
 4815 this state to provide such services through a unified system which encourages cooperation

4816 and sharing of resources among all providers of such services, both governmental and
4817 private.

4818 (c) It is the purpose of this chapter to enable and encourage the development of
4819 comprehensive, preventive, early detection, habilitative, rehabilitative, and treatment
4820 disability services; to improve and expand community programs for the disabled; to
4821 provide continuity of care through integration of county, area, regional, and state services
4822 and facilities for the disabled; to provide for joint disability services and the sharing of
4823 manpower and other resources; and to monitor and restructure the system of providing
4824 disability services in the State of Georgia to make better use of the combined public and
4825 private resources of the state and local communities.

4826 (d) The provisions of this chapter shall be liberally construed to achieve the objectives set
4827 forth in this Code section.

4828 37-2-2.

4829 As used in this chapter, the term:

4830 ~~(1) 'Addictive disease' means the abuse of, addiction to, or dependence upon alcohol or~~
4831 ~~other drugs and includes substance abuse.~~

4832 ~~(2)~~(1) 'Community service board' means a public mental health, developmental
4833 disabilities, and addictive diseases board established pursuant to Code Section 37-2-6.

4834 ~~(2.1)~~(2) 'Community service board area' means an area inclusive of the counties which
4835 fall within the boundaries of a community service board as designated by the ~~division~~
4836 department pursuant to subsection (b) of Code Section 37-2-3 for the establishment of a
4837 community service board.

4838 ~~(2.2)~~(3) 'Community service board service area' means a community service board area
4839 and any other county or portion thereof in which the community service board provides
4840 services.

4841 ~~(3) 'Consumer' means a natural person who has been or is a recipient of disability~~
4842 ~~services as defined in this Code section.~~

4843 (4) 'Council' means the Behavioral Health Coordinating Council established pursuant to
4844 Code Section 37-2-4.

4845 ~~(4) 'Developmental disability' includes mental retardation and other neurologically~~
4846 ~~disabling conditions, including epilepsy, cerebral palsy, and autism, which require~~
4847 ~~treatment similar to that for individuals with mental retardation.~~

4848 ~~(5) 'Director' means the director of the Division of Mental Health, Developmental~~
4849 ~~Disabilities, and Addictive Diseases.~~

4850 ~~(6) 'Disability' means:~~

4851 ~~(A) Mental or emotional illness;~~

- 4852 ~~(B) Developmental disability; or~~
- 4853 ~~(C) Addictive disease.~~
- 4854 ~~(7) 'Disability services' means services to the disabled or services which are designed to~~
 4855 ~~prevent or ameliorate the effect of a disability.~~
- 4856 ~~(8) 'Disabled' means any person or persons having a disability.~~
- 4857 ~~(9) 'Division' means the Division of Mental Health, Developmental Disabilities, and~~
 4858 ~~Addictive Diseases of the Department of Human Resources.~~
- 4859 (5) 'Health services' means any education or service provided by the Department of
 4860 Health or by the Department of Human Services, either directly or by contract.
- 4861 ~~(10)~~(6) 'Hospital' means a state owned or state operated facility providing services which
 4862 include, but are not limited to, inpatient care and the diagnosis, care, and treatment or
 4863 habilitation of the disabled. Such hospital may also provide or manage state owned or
 4864 operated programs in the community.
- 4865 ~~(11) 'Regional board' means a regional mental health, mental retardation, and substance~~
 4866 ~~abuse board established in accordance with Code Section 37-2-4.1 as that Code section~~
 4867 ~~existed on June 30, 2002.~~
- 4868 ~~(12) 'Regional office' means the Division of Mental Health, Developmental Disabilities,~~
 4869 ~~and Addictive Diseases of the Department of Human Resources office created pursuant~~
 4870 ~~to Code Section 37-2-4.1. Such office shall be an office of the division which shall serve~~
 4871 ~~as the entity for the administration of disability services in a region.~~
- 4872 ~~(13) 'Regional planning board' means a regional mental health, developmental~~
 4873 ~~disabilities, and addictive diseases board established in accordance with Code Section~~
 4874 ~~37-2-4.1.~~
- 4875 ~~37-2-2.1.~~
- 4876 ~~The Department of Human Resources shall have a Division of Mental Health,~~
 4877 ~~Developmental Disabilities, and Addictive Diseases.~~
- 4878 ~~37-2-3.~~
- 4879 (a) The board shall designate boundaries for mental health, developmental disabilities, and
 4880 addictive diseases regions and may modify the boundaries of such regions from time to
 4881 time as deemed necessary by the board.
- 4882 (b) The ~~division~~ department, with the approval of the commissioner, shall designate
 4883 community service board areas, which shall serve as boundaries for the establishment of
 4884 community service boards within this state for the purpose of delivering disability services.
 4885 The ~~division~~ department shall be authorized to initiate the redesignation of such community
 4886 service board area boundaries and may consider requests from a county or group of

4887 counties or a community service board or a group of community service boards for
 4888 recommended changes to the boundaries of the community service board areas. The
 4889 ~~division~~ department, with the approval of the commissioner, is authorized to redesignate
 4890 two or more contiguous community service board areas as a single community service
 4891 board area upon the request of the community service boards serving such areas; and, if so
 4892 authorized, the assets, equipment, and resources of such community service boards shall
 4893 become the assets, equipment, and resources of the reconstituted community service board
 4894 serving the successor single board area. It is the intent of the General Assembly not to
 4895 limit a community service board to serving only those counties within the boundaries of
 4896 its community service board area.

4897 (c) To the extent practicable, the boundaries for regional planning boards and offices and
 4898 community service areas shall not subdivide any county unit or conflict with any districts
 4899 established by the ~~department~~ Department of Health and the state relating to the planning
 4900 for, or delivery of, health services. In dividing the state into areas, the board; and the
 4901 ~~department, and the division~~ shall take into consideration such factors as geographic
 4902 boundaries, roads and other means of transportation, population concentrations, city and
 4903 county lines, other relevant community services, and community economic and social
 4904 relationships. Consideration shall also be given to the existence of facilities and personnel
 4905 available in the areas for the delivery of disability services.

4906 37-2-4.

4907 ~~(a) The Governor shall appoint, fund, and provide staff assistance to a Governor's~~
 4908 ~~Advisory Council for Mental Health, Developmental Disabilities, and Addictive Diseases;~~
 4909 ~~referred to in this chapter as the 'Governor's council.' The Governor's council shall consist~~
 4910 ~~of no more than 30 and no less than 15 members, who shall be representative of~~
 4911 ~~professional and lay individuals, organizations, and state agencies associated or involved~~
 4912 ~~with services for the disabled. Such members shall be fairly representative of all disability~~
 4913 ~~groups. The term of each member of the Governor's council shall be for three years,~~
 4914 ~~provided that of the members first appointed, ten shall be appointed for a term of one year,~~
 4915 ~~five for a term of two years, and the remainder, if any, for a term of three years. Vacancies~~
 4916 ~~shall be filled by similar appointment for unexpired terms. The director shall be an ex~~
 4917 ~~officio, nonvoting member. There is created the Behavioral Health Coordinating Council.~~
 4918 The council shall consist of the commissioner of behavioral health; the commissioner of
 4919 health; the commissioner of human services; the commissioner of juvenile justice; the
 4920 commissioner of corrections; an adult consumer of public behavioral health services,
 4921 appointed by the Governor; a family member of a consumer of public behavioral health
 4922 services, appointed by the Governor; a parent of a child receiving public behavioral health

4923 services, appointed by the Governor; a member of the House of Representatives, appointed
4924 by the Speaker of the House of Representatives; and a member of the Senate, appointed by
4925 the Lieutenant Governor.

4926 ~~(b) The Governor's council shall advise the Governor, the board, the department, and the~~
4927 ~~division as to the efficacy of the state disability services programs, the need for legislation~~
4928 ~~relating to the disabled, the need for expansion or reduction of specific disability services~~
4929 ~~programs, and the need for specific changes in the state disability services programs. The~~
4930 ~~Governor's council shall review and prepare written comments on proposed state plans and~~
4931 ~~on standards, rules, and regulations promulgated by the division. Such comments shall be~~
4932 ~~submitted to the director, the board, the commissioner, and to any other individual or~~
4933 ~~agency deemed appropriate. The Governor's council shall further receive and consider~~
4934 ~~complaints and grievances submitted in writing by individuals, associations, or agencies~~
4935 ~~involved with the delivery or receipt of disability services and, if deemed appropriate, shall~~
4936 ~~make recommendations to the Governor, the board, the department, or the division with~~
4937 ~~respect to such complaints or grievances. The Governor's council shall also provide~~
4938 ~~guidance and assistance to the regional planning boards, hospitals, community service~~
4939 ~~boards, and other private or public providers in the performance of their duties.~~

4940 (b) The commissioner of behavioral health shall be the chairperson of the council. A vice
4941 chairperson and a secretary shall be selected by the members of the council as prescribed
4942 in the council's bylaws.

4943 (c) Meetings of the council shall be held quarterly, or more frequently, on the call of the
4944 chairperson. Meetings of the council shall be held with no less than five days' public notice
4945 for regular meetings and with such notice as the bylaws may prescribe for special meetings.
4946 Each member shall be given written notice of all meetings. All meetings of the council
4947 shall be subject to the provisions of Chapter 14 of Title 50. Minutes or transcripts shall be
4948 kept of all meetings of the council and shall include a record of the votes of each member,
4949 specifying the yea or nay vote or absence of each member, on all questions and matters
4950 coming before the council. No member may abstain from a vote other than for reasons
4951 constituting disqualification to the satisfaction of a majority of a quorum of the council on
4952 a recorded vote. No member of the council shall be represented by a delegate or agent.

4953 (d) Except as otherwise provided in this Code section, a majority of the members of the
4954 council then in office shall constitute a quorum for the transaction of business. No vacancy
4955 on the council shall impair the right of the quorum to exercise the powers and perform the
4956 duties of the council. The vote of a majority of the members of the council present at the
4957 time of the vote, if a quorum is present at such time, shall be the act of the council unless
4958 the vote of a greater number is required by law or by the bylaws of the council.

4959 (e) The council shall:

4960 (1) Develop solutions to the systemic barriers or problems to the delivery of behavioral
 4961 health services by making recommendations that implement funding, policy changes,
 4962 practice changes, and evaluation of specific goals designed to improve services delivery
 4963 and outcome for individuals served by the various departments;

4964 (2) Focus on specific goals designed to resolve issues for provision of behavioral health
 4965 services that negatively impact individuals serviced by at least two departments;

4966 (3) Monitor and evaluate the implementation of established goals; and

4967 (4) Establish common outcome measures.

4968 (f)(1) The council may consult with various entities, including state agencies, councils,
 4969 and advisory committees and other advisory groups as deemed appropriate by the
 4970 council.

4971 (2) All state departments, agencies, boards, bureaus, commissions, and authorities are
 4972 authorized and required to make available to the council access to records or data which
 4973 are available in electronic format or, if electronic format is unavailable, in whatever
 4974 format is available. The judicial and legislative branches are authorized to likewise
 4975 provide such access to the council.

4976 (g) The council shall be attached to the Department of Behavioral Health for
 4977 administrative purposes only as provided by Code Section 50-4-3.

4978 (h)(1) The council shall submit annual reports of its recommendations and evaluation of
 4979 their implementation to the Governor and the General Assembly.

4980 (2) The recommendations developed by the council shall be presented to the board of
 4981 each member department for approval or review at least annually.

4982 (i) For purposes of this Code section, the term 'behavioral health services' has the same
 4983 meaning as 'disability services' as defined in Code Section 37-1-1.

4984 37-2-4.1.

4985 (a) The ~~division~~ department shall create regional mental health, developmental disabilities,
 4986 and addictive diseases offices. The number of these offices may be modified from time to
 4987 time as deemed necessary by the ~~division~~ department.

4988 (b) The ~~division~~ department shall create a separate regional mental health, developmental
 4989 disabilities, and addictive diseases planning board for each regional office established
 4990 under subsection (a) of this Code section. Each board shall provide and facilitate
 4991 coordinated and comprehensive planning for its region in conformity with minimum
 4992 standards and procedures established by the ~~division~~ department. Each board shall be
 4993 designated with such identifying words before the term 'regional mental health,
 4994 developmental disabilities, and addictive diseases planning board' as that regional planning
 4995 board may, from time to time, choose and designate by official action.

4996 (c) The powers, functions, obligations, and duties of the regional mental health, mental
 4997 retardation, and substance abuse boards as they existed on June 30, 2002, are transferred
 4998 to the department. The department shall succeed to all rights, privileges, entitlements,
 4999 contracts, leases, agreements, and other transactions of the regional boards which were in
 5000 effect on June 30, 2002, and none of those rights, privileges, entitlements, contracts, leases,
 5001 agreements, and other transactions shall be impaired or diminished by reason of such
 5002 transfer. In all such instances, the department shall be substituted for such regional board
 5003 and the department shall succeed to the rights and duties under such contracts, leases,
 5004 agreements, and other transactions.

5005 37-2-5.

5006 (a) Each regional planning board shall engage in disability services planning within its
 5007 region and shall perform such other functions as may be provided or authorized by law.

5008 (b) Membership on the regional planning board within an established region shall be
 5009 determined as follows:

5010 (1) Each county with a population of 50,000 or less according to the United States
 5011 decennial census of 1990 or any future such census shall appoint one member to the
 5012 board;

5013 (2) Each county with a population of more than 50,000 according to the United States
 5014 decennial census of 1990 or any future such census shall appoint one member for each
 5015 population increment of 50,000 or any portion thereof;

5016 (3) The appointment or appointments for each county shall be made by the county
 5017 governing authority; and

5018 (4) The county governing authority shall appoint a consumer of disability services, a
 5019 family member of a consumer, an advocate for disability services, or a local leader or
 5020 business person with an interest in mental health, developmental disabilities, and
 5021 addictive diseases; provided, however, that for counties with more than one appointment,
 5022 the county governing authority shall seek to ensure that such appointments represent
 5023 various groups and disability services.

5024 (b.1) A county governing authority may appoint the school superintendent, a member of
 5025 the county board of health, a member of the local board of education, or any other elected
 5026 or appointed official to serve on the regional planning board, provided that such person
 5027 meets the qualifications of paragraph (4) of subsection (b) of this Code section, such person
 5028 does not serve on a community service board, and such appointment does not violate the
 5029 provisions of Chapter 10 of Title 45.

5030 (b.2)(1) A person shall not be eligible to be appointed to or serve on a regional planning
 5031 board if such person is:

5032 (A) A member of the community service board which serves that region; or

5033 (B) An employee or board member of a private or public entity which contracts with
 5034 the department, ~~through the division,~~ the Department of Human Services, or the
 5035 Department of Health to provide health, mental health, developmental disabilities, or
 5036 addictive diseases services within the region; ~~or~~

5037 (C) An employee of such regional office or employee or board member of any private
 5038 or public group, organization, or service provider which contracts with or receives
 5039 funds from such regional office: or

5040 (D) An employee or board member of the department, the Department of Human
 5041 Services, or the Department of Health.

5042 (2) A person shall not be eligible to be appointed to or serve on a regional planning board
 5043 if such person's spouse, parent, child, or sibling is a member of that regional planning
 5044 board or a member, employee, or board member specified in ~~subparagraph (A), (B), or~~
 5045 ~~(C)~~ of paragraph (1) of this subsection. No person who has served a full term or more
 5046 on a regional board or regional planning board may be appointed to a community service
 5047 board until a period of at least two years has passed since the time such person served on
 5048 the regional board or the regional planning board. No person who has served on a
 5049 regional board and who becomes a member of a regional planning board on June 30,
 5050 2002, may be appointed to a community service board until a period of at least two years
 5051 has passed since the time such person has served on the regional planning board.

5052 (c) In making appointments to the regional planning board, the various county governing
 5053 authorities shall ensure that appointments are reflective of the cultural and social
 5054 characteristics, including gender, race, ethnic, and age characteristics, of the regional and
 5055 county populations. The county governing authorities are further encouraged to ensure that
 5056 each disability group is viably represented on the regional planning board, and in so doing
 5057 the county governing authority may consider suggestions for appointments from clinical
 5058 professional associations as well as advocacy groups, including but not limited to the
 5059 Georgia Mental Health Consumer Network, People First of Georgia, the Georgia Parent
 5060 Support Network, National Alliance for the Mentally Ill Georgia, the American Association
 5061 for Retired Persons, Georgians for Children, the National Mental Health Association of
 5062 Georgia, Georgia ARC Network, and the Georgia Council on Substance Abuse and their
 5063 local chapters and affiliates.

5064 (d)(1) In addition, members of the regional mental health, mental retardation, and
 5065 substance abuse boards in office on June 30, 2002, shall become members of the regional
 5066 planning board for the area in which they reside on July 1, 2002, and shall serve out the
 5067 balance of their terms.

5068 (2) The initial term of a new member of a regional planning board shall be determined
5069 by the commissioner in order to establish staggered terms on the board. At such time as
5070 the terms of the members of the board are equally staggered, the term of a member of the
5071 regional planning board shall be for a period of three years and until the member's
5072 successor is appointed and qualified. A member may serve no more than two consecutive
5073 terms. The term of a regional planning board member shall terminate upon resignation,
5074 death, or inability to serve due to medical infirmity or other incapacity or such other
5075 reasonable condition as the regional planning board may impose under its bylaws.
5076 Vacancies on the regional planning board shall be filled in the same manner as the
5077 original appointment.

5078 (e) Prior to August 1, 2002, each regional planning board shall adopt bylaws governing
5079 its operation and management. At a minimum, the bylaws shall provide for staggered
5080 terms of the board, requirements for an annual meeting to elect officers, a mechanism for
5081 ensuring that consumers of disability services and family members of consumers constitute
5082 a majority of the appointments to the board, and a mechanism for ensuring that each
5083 disability service is equitably represented by appointments to the board. Any board
5084 member who serves an initial term of less than three years may be eligible to be
5085 reappointed for two full consecutive three-year terms. The chairperson and vice
5086 chairperson of the regional planning board shall be elected from among the members of the
5087 board to serve a term of one year with the option of reelection for an additional one-year
5088 term. The bylaws shall provide for any other officers and their means of selection, as well
5089 as any necessary committees or subcommittees of the board. Prior to their adoption by the
5090 regional planning board, the bylaws shall be submitted to the ~~division~~ department for
5091 review and approval. The regional planning board must have the written approval of the
5092 ~~director of the division~~ commissioner prior to the adoption of bylaws.

5093 (f) The regional planning board shall meet not less than once every two months, beginning
5094 on July 1 and continuing through the next June 30, which time frame shall be the fiscal
5095 year for each regional planning board.

5096 (g) Each member of the regional planning board may, upon approval of the regional
5097 coordinator, receive reimbursement for actual expenses incurred in carrying out the duties
5098 of such office in conformance with rates and allowances set for state employees by the
5099 Office of Planning and Budget and the same mileage allowance for use of a personal car
5100 as that received by all other state officials and employees or a travel allowance of actual
5101 transportation cost if traveling by public carrier.

5102 (h) Each regional planning board which is composed of members who are appointed
5103 thereto by the governing authority of only one county shall have a minimum of six

5104 members, notwithstanding the provisions of subsection (b) of this Code section, which
5105 members shall in all other respects be appointed as provided in this Code section.

5106 37-2-5.1.

5107 (a) Each region shall be served by a regional coordinator, who shall be duly qualified and
5108 appointed by the ~~director of the division~~ commissioner. The regional coordinator shall
5109 serve as the supervisor of the regional office, which shall be a unit of the ~~division~~
5110 department. The regional coordinator shall serve at the pleasure of the ~~division director~~
5111 commissioner. The ~~director of the division~~ commissioner shall be authorized to appoint
5112 an interim regional coordinator at any time that the position of regional coordinator is
5113 vacant and prior to the appointment of a duly qualified and approved successor.

5114 (b) The regional coordinator may appoint such other staff including a regional services
5115 administrator and a ~~regional state hospital administrator~~ and personnel to work for the
5116 regional office as the ~~division~~ department deems necessary and appropriate. The regional
5117 coordinator and such staff and personnel shall be employees of the ~~division~~ department.
5118 Expenses for the regional office and planning board, the employment of the regional
5119 coordinator, other staff and personnel, and the operation of the regional office shall be
5120 funded by the ~~division~~ department as funds are appropriated by the General Assembly. The
5121 department and the ~~division~~ shall impose limits on the administrative and operating
5122 expenditures of the regional office and planning board.

5123 (c)(1) State, federal, and other funds appropriated to the department, ~~the division, or~~
5124 ~~both~~, and available for the purpose of funding the planning and delivery of disability
5125 services shall be distributed in accordance with this subsection. All funds associated with
5126 services to clients residing within a given region shall be managed through the ~~division~~
5127 department; the term 'all funds' shall include funding for hospitals, community service
5128 boards, private and public contracts, and any contracts relating to service delivery for
5129 clients within the given region. The ~~division~~ department shall establish a funding amount
5130 for regions conditioned upon the amount of funds appropriated. The funding amount
5131 shall be determined, in part, based on consumer service needs, service and program
5132 history, population based funding needs, infrastructure mandates, program efficiency and
5133 effectiveness, geographic distances, and other factors affecting the cost and level of
5134 service needs within each region.

5135 (2) The ~~division~~ department shall establish guidelines to ensure that regions receive such
5136 funding based on client population, past and future service delivery needs and
5137 capabilities, and in consideration of special needs populations, such as homeless and
5138 transient populations. The ~~division~~ department shall ensure that funds are managed based

5139 primarily on services to clients and in compliance with all federal, state, and regulatory
5140 requirements.

5141 (3) The ~~division~~ department, in compliance with the provisions of the General
5142 Appropriations Act and other applicable laws, is authorized to move funds to and
5143 between community and institutional programs based on need, and the ~~division~~
5144 department shall develop appropriate allocation and accounting mechanisms to move
5145 funds in a planned and rational manner between hospitals, community service boards, and
5146 other providers based on client needs and utilization.

5147 37-2-5.2.

5148 (a) Under the supervision of the ~~division~~ department, each regional office shall have the
5149 following duties and functions:

5150 (1) To prepare, in consultation with consumers and families, community programs,
5151 hospitals, other public and private providers, its regional planning board, and appropriate
5152 advisory and advocacy groups, an annual plan for the funding and provision of all
5153 disability services in the region. The plan shall be submitted to the ~~division~~ department
5154 at a time and in the manner specified by the ~~division~~ department so as to ensure that the
5155 plan is a basis for the annual appropriations request;

5156 (2) To provide, as funds become available, for consumer assessment and service
5157 authorization and coordination for each consumer receiving services within the region;

5158 (3) To exercise responsibility and authority as specified in this chapter within the region
5159 in all matters relating to the funding and delivery of disability services;

5160 (4) To receive and administer grants, gifts, moneys, and donations for purposes
5161 pertaining to mental health, developmental disability, and addictive disease services;

5162 (5) To enter into contracts on behalf of the ~~division~~ department with any hospital,
5163 community service board, or other public or private providers without regard to regional
5164 or state boundaries for the provision of disability services, and to enter into all contracts
5165 on behalf of the ~~division~~ department necessary or incidental to the performance of duties
5166 and functions of the ~~division~~ department and regional office;

5167 (6) To encourage the development, in cooperation with the ~~division~~ department, of
5168 private and public providers of programs and disability services which respond to the
5169 needs of consumers and families of consumers within the region;

5170 (7) To serve as the representative of the citizens of the area in regard to disability
5171 services;

5172 (8) To receive and consider complaints and grievances submitted by individuals,
5173 associations, or agencies involved with the delivery or receipt of disability services and,
5174 if deemed appropriate, to seek resolution, through processes which may include impartial

5175 mediation and alternate dispute resolution, of such complaints and grievances with the
 5176 appropriate hospital, community service board, or other private or public provider of
 5177 service;

5178 (9) To assure the highest achievable level of public awareness and understanding of both
 5179 available and needed disability services;

5180 (10) To visit regularly disability services facilities and programs which serve the region
 5181 in order to assure contracted providers are licensed and accredited by the designated
 5182 agencies prescribed by the ~~division~~ department, and in order to evaluate the effectiveness
 5183 and appropriateness of the services, as such services relate to the health, safety, and
 5184 welfare of service recipients, and to provide technical assistance to programs in
 5185 delivering services; and

5186 (11) To participate with other regional offices and planning boards, ~~the division~~, the
 5187 department, local, state, or federal government agencies, educational institutions, and
 5188 public and private organizations in the coordination of planning, research, service
 5189 development, and evaluation activities:

5190 (A) To work cooperatively with all units of county and local government, including the
 5191 county boards of health, within the region;

5192 (B) To establish goals and objectives, not inconsistent with those established by ~~the~~
 5193 ~~division~~ and the department, for its region; and

5194 (C) To participate in the establishment and operation of a data base and network,
 5195 coordinated by the ~~division~~ department, to serve as a comprehensive management
 5196 information system for disability services and programs.

5197 (b) It is the express intent of this chapter to confer upon the regional offices as the
 5198 administrative entities of the ~~division~~ department the flexibility and authority necessary to
 5199 enter into contracts on behalf of the ~~division~~ department with a wide range of public and
 5200 private providers to ensure that consumers are afforded cost-effective, locally based, and
 5201 quality disability services. Under the supervision of the ~~division~~ department, regional
 5202 offices are specifically authorized to enter into contracts on behalf of the ~~division~~
 5203 department directly with any county governing authority, any disability services
 5204 organization created or designated by such county governing authority, any county board
 5205 of health, any private or public provider, or any hospital for the provision of disability
 5206 services.

5207 (c) Each regional office shall account for all funds received, expended, and administered
 5208 and shall make reports to the ~~division~~ department and to the Department of Human
 5209 Services regarding the funds received from each such department. The audit of such
 5210 activity shall be part of the annual audit of the appropriate department.

5211 37-2-6.

5212 (a) Community service boards in existence on June 30, 2006, are re-created effective July
 5213 1, 2006, to provide mental health, developmental disabilities, and addictive diseases
 5214 services. ~~Such~~ Effective July 1, 2009, such community service boards may enroll and
 5215 contract with the department, the Department of Human Services, or the Department of
 5216 Health to become a provider of mental health, developmental disabilities, and addictive
 5217 diseases services or health services. Such boards shall be considered public agencies.
 5218 Each community service board shall be a public corporation and an instrumentality of the
 5219 state; provided, however, the liabilities, debts, and obligations of a community service
 5220 board shall not constitute liabilities, debts, or obligations of the state or any county or
 5221 municipal corporation and neither the state nor any county or municipal corporation shall
 5222 be liable for any liability, debt, or obligation of a community service board. Each
 5223 community service board re-created pursuant to this Code section is created for nonprofit
 5224 and public purposes to exercise essential governmental functions. The re-creation of
 5225 community service boards pursuant to this Code section shall not alter the provisions of
 5226 Code Section 37-2-6.2 which shall apply to those re-created community service boards and
 5227 their employees covered by that Code section and those employees' rights are retained.

5228 (b) Each community service board shall consist of members appointed by the governing
 5229 authorities of the counties within the community service board area. Membership on such
 5230 community service board shall be determined as follows:

5231 (1)(A) The governing authority of each county within the community service board
 5232 area:

5233 (i) With a population of 50,000 or less according to the most recent United States
 5234 decennial census shall appoint one member to the board; and

5235 (ii) With a population of more than 50,000 according to the most recent United States
 5236 decennial census shall appoint one member for each population increment of 50,000
 5237 or any portion thereof; or

5238 (B) In the event that the number of community service board member positions
 5239 established in accordance with subparagraph (A) of this paragraph would exceed 13,
 5240 the membership of such community service board pursuant to this subsection shall be
 5241 appointed as follows and the bylaws shall be amended accordingly:

5242 (i) For community service boards whose community service board area contains 13
 5243 or fewer counties, the board shall be set at 13 members and appointments to the board
 5244 shall be made by the governing authority of each county within the community
 5245 service board area in descending order from the county with the largest population to
 5246 the county with the smallest population according to the most recent United States
 5247 decennial census and this method shall be repeated until all 13 members of the

community service board are appointed. If a county governing authority fails to make an appointment within a reasonable time, the next descending county by population shall make an appointment and the method shall continue; and

(ii) For community service boards whose community service board area contains more than 13 counties, one member of the community service board shall be appointed by the governing authority of each county within the community service board area, so that the number of members on the board is equal to the number of counties in the community service board area.

The county governing authority shall appoint as at least one of its appointments a consumer of disability services, a child psychiatrist, a family member of a consumer, an advocate for disability services or for health services, or a local leader or businessperson with an interest in mental health, developmental disabilities, and addictive diseases or health services; provided, however, that for counties with more than one appointment, the county governing authority shall seek to ensure that such appointments represent various groups and disability services;

(2) In addition to the members appointed pursuant to paragraph (1) of this subsection, each community service board may appoint up to three additional members in order to address variation in the population sizes of counties or the financial contributions of counties within the community service board area or may authorize the elected chief executive officer of a county governing authority, by whatever name called, or an elected member of that county governing authority to serve on the community service board while holding such elective office. The bylaws of the community service board shall address the number of such additional members, if any, and the purpose or purposes for which such positions are created. The term of office of such additional members shall be the same as that of other members as provided in subsection (h) of this Code section; except that the term of office of a member in a position created to authorize the elected chief executive officer of a county governing authority, by whatever name called, or an elected member of that county governing authority to serve on the community service board shall be the same term of office as the elective term of office of said chief executive officer or said member of that county governing authority;

(3) Each community service board in existence on June 30, 2006, shall reconstitute its membership in accordance with the provisions of paragraphs (1) and (2) of this subsection, effective July 1, 2006, as follows:

(A) A community service board which increases or reduces the number of its members in accordance with paragraphs (1) and (2) of this subsection shall revise its bylaws adopted in accordance with subsection (h) of this Code section to reflect such increases or reductions. A community service board which reduces the number of its members

5285 shall designate which position or positions are to be eliminated and shall make
 5286 reasonable efforts to eliminate any position or positions of members whose terms expire
 5287 on or before June 30, 2006; provided, however, that members serving on a community
 5288 service board whose terms do not expire on or before June 30, 2006, shall continue to
 5289 serve out the terms of office to which they were appointed, regardless of whether this
 5290 causes a board to temporarily exceed the maximum number of members. Any
 5291 additional positions created in conformity with such paragraphs (1) and (2) may be
 5292 filled on July 1, 2006, and the governing authority of a county that is otherwise
 5293 authorized to appoint such additional community service board member or members
 5294 may do so no sooner than May 1, 2006, but any person so appointed shall not take
 5295 office until July 1, 2006. If a position on such community service board is not filled on
 5296 July 1, 2006, a vacancy in that position shall be deemed to have occurred on that date.
 5297 A community service board is authorized to make whatever changes necessary in the
 5298 terms of office of its members in order to achieve the staggering of terms required by
 5299 subsection (h) of this Code section; and

5300 (B) The term of office of an ex officio, voting member of a community service board
 5301 holding membership on June 30, 2006, shall expire on June 30, 2006; and

5302 (4)(A) A person shall not be eligible to be appointed to or serve on a community
 5303 service board if such person is:

5304 (i) A member of the regional planning board which serves the region in which that
 5305 community service board is located;

5306 (ii) An employee or board member of a public or private entity which contracts with
 5307 the ~~division~~ department, the Department of Human Services, or the Department of
 5308 Health to provide mental health, developmental disabilities, and addictive diseases
 5309 services or health services within the region; or

5310 (iii) An employee of that community service board or employee or board member of
 5311 any private or public group, organization, or service provider which contracts with or
 5312 receives funds from that community service board.

5313 (B) A person shall not be eligible to be appointed to or serve on a community service
 5314 board if such person's spouse, parent, child, or sibling is a member of that community
 5315 service board or a member, employee, or board member specified in ~~division (i), (ii),~~
 5316 ~~or (iii) of subparagraph (A) of this paragraph.~~ With respect to appointments by the
 5317 same county governing authority, no person who has served a full term or more on a
 5318 community service board may be appointed to a regional planning board until a period
 5319 of at least two years has passed since the time such person served on the community
 5320 service board, and no person who has served a full term or more on a regional planning

5321 board may be appointed to a community service board until a period of at least two
5322 years has passed since the time such person has served on the regional planning board.

5323 (5) A community service board created in accordance with this subsection shall
5324 reconstitute its membership in conformity with the most recent United States decennial
5325 census in accordance with subparagraph (d)(2)(C) of Code Section 1-3-1.

5326 (b.1) A county governing authority may appoint the school superintendent, a member of
5327 the county board of health, a member of the board of education, or any other elected or
5328 appointed official to serve on the community service board provided that such person meets
5329 the qualifications of paragraph (1) of subsection (b) of this Code section and such
5330 appointment does not violate the provisions of Chapter 10 of Title 45. For terms of office
5331 which begin July 1, 1994, or later, an employee of the Department of Human Resources
5332 (now known as the Department of Behavioral Health for these purposes) or an employee
5333 of a county board of health ~~may~~ shall not serve on a community service board. For terms
5334 of office which begin July 1, 2009, or later, an employee of the department, the Department
5335 of Human Services, or the Department of Health or a board member of the respective
5336 boards of each department shall not serve on a community service board.

5337 (c) In making appointments to the community service board, the county governing
5338 authorities shall ensure that such appointments are reflective of the cultural and social
5339 characteristics, including gender, race, ethnic, and age characteristics, of the community
5340 service board area and county populations. The county governing authorities are further
5341 encouraged to ensure that each disability group is and consumers of health services are
5342 represented on the community service board, and in making such appointments the county
5343 governing authorities may consider suggestions from clinical professional associations as
5344 well as advocacy groups. For the purposes of this subsection, 'advocacy groups' means any
5345 organizations or associations that advocate for, promote, or have an interest in disability
5346 services or health services and are exempted as a charitable organization from federal
5347 income tax pursuant to Section 501(c) of the Internal Revenue Code; provided, however,
5348 that 'advocacy groups' shall not mean paid providers of disability services or health
5349 services.

5350 (c.1) A county governing authority in making appointments to the community service
5351 board shall take into consideration that at least one member of the community service
5352 board is an individual who is trained or certified in finance or accounting; provided,
5353 however, if after a reasonable effort at recruitment there is no person trained or certified
5354 in finance or accounting within the community service board area who is willing and able
5355 to serve, the county governing authority may consider for appointment any other person
5356 having a familiarity with financial or accounting practices.

5357 (d) Each county in which the governing authority of the county is authorized to appoint
 5358 members to the community service board shall participate with the board in the operation
 5359 of the program through the community service board. All contractual obligations,
 5360 including but not limited to real estate leases, rentals, and other property agreements, other
 5361 duties, rights, and benefits of the mental health, developmental disabilities, and addictive
 5362 diseases service areas in existence on June 30, 2006, shall continue to exist along with the
 5363 new powers granted to the community service boards effective July 1, 2006.

5364 (e) Notwithstanding any other provision of this chapter, a community service board may
 5365 be constituted in a method other than that outlined in subsection (b) of this Code section
 5366 if:

5367 (1) A board of health of a county desiring to be the lead county board of health for that
 5368 county submits a written agreement to the ~~division~~ former Division of Mental Health,
 5369 Developmental Disabilities, and Addictive Diseases (now known as the Department of
 5370 Behavioral Health) of the former Department of Human Resources before July 1, 1993,
 5371 to serve as the community service board and to continue providing disability services in
 5372 that county after July 1, 1994, and the governing authority for that county ~~adopts~~ adopted
 5373 a resolution stating its desire to continue the provision of disability services through its
 5374 board of health after July 1, 1994, and ~~submits~~ submitted a copy of such resolution to the
 5375 ~~former~~ division before July 1, 1993; or

5376 (2)(A) The lead county board of health for a community mental health, mental
 5377 retardation, and substance abuse service area, as designated by the ~~division~~ former
 5378 Division of Mental Health, Developmental Disabilities, and Addictive Diseases (now
 5379 known as the Department of Behavioral Health) of the former Department of Human
 5380 Resources on July 15, 1993, but which area excludes any county which meets the
 5381 requirements of paragraph (1) of this subsection, ~~submits~~ submitted a written agreement
 5382 to the ~~former~~ division and to all counties within such service area to serve as the
 5383 community service board for that area and to continue providing disability services
 5384 after July 1, 1994, which agreement ~~shall be~~ was submitted between July 31, 1993, and
 5385 December 31, 1993; and

5386 (B) Each county governing authority which is within the service area of a lead county
 5387 board of health which has submitted an agreement pursuant to subparagraph (A) of this
 5388 paragraph ~~adopts~~ adopted a resolution stating its desire to continue the provision of
 5389 disability services through such lead county board of health after July 1, 1994, and
 5390 ~~submits~~ submitted a copy of that resolution to the ~~former~~ division, the regional board,
 5391 and the lead county board of health between July 31, 1993, and December 31, 1993;
 5392 and

5393 (3) The lead county board of health qualifying as such under paragraph (1) or (2) of this
5394 subsection agrees in writing to appoint a director for mental health, mental retardation,
5395 and substance abuse other than the director of the county board of health as stipulated in
5396 Code Section 31-3-12.1, to appoint an advisory council on mental health, mental
5397 retardation, and substance abuse consisting of consumers, families of consumers, and
5398 representatives from each of the counties within the boundaries of the community service
5399 board, and to comply with all other provisions relating to the delivery of disability
5400 services pursuant to this chapter.

5401 (f) If the conditions enumerated in subsection (e) of this Code section are not met prior to
5402 or on December 31, 1993, a community service board as provided in subsection (b) shall
5403 be established and appointed by January 31, 1994, to govern the provision of disability
5404 services within the boundaries of the community service board. Such community service
5405 board shall have the authority to adopt bylaws and undertake organizational and contractual
5406 activities after January 31, 1994; provided, however, that the community service board
5407 established pursuant to this Code section may not begin providing services to clients until
5408 July 1, 1994.

5409 (g) If a community service board is established pursuant to paragraph (2) of subsection (e)
5410 of this Code section, such community service board must operate as established at least
5411 until June 30, 1996; provided, however, that in each fiscal year following June 30, 1996,
5412 the counties included under the jurisdiction of such a community service board may vote
5413 to reconstitute the community service board pursuant to the provisions of subsection (b)
5414 of this Code section by passage of a resolution by a majority of the county governing
5415 authorities within the jurisdiction of the community service board prior to January 1, 1997,
5416 or each year thereafter.

5417 (h) Each community service board shall adopt bylaws and operational policies and
5418 guidelines in conformity with the provisions of this chapter. Those bylaws shall address
5419 board appointment procedures, initial terms of board members, the staggering of terms,
5420 quorum, a mechanism for ensuring that consumers of disability services or of health
5421 services and family members of consumers constitute no less than 50 percent of the board
5422 members appointed pursuant to subsection (b) of this Code section, and a mechanism for
5423 ensuring equitable representation of the various disability groups and health services. A
5424 quorum for the transaction of any business and for the exercise of any power or function
5425 of the community service board shall consist of a majority of the total number of filled
5426 board member positions appointed pursuant to subsection (b) of this Code section. A vote
5427 of the majority of such quorum shall be the act of the governing board of the community
5428 service board except where the bylaws of the community service board may require a
5429 greater vote. The regular term of office for each community service board member shall

5430 be three years. Vacancies on such board shall be filled in the same manner as the original
5431 appointment. For the purposes of this subsection, 'equitable representation of the various
5432 disability and health service groups' shall mean that consumers and family members of
5433 such consumers who constitute no less than 50 percent of the board members holding
5434 membership pursuant to subsection (b) of this Code section shall be appointed so as to
5435 assure that an equal number of such members to the fullest extent possible represents
5436 mental health, developmental disabilities, and addictive diseases interests and the interests
5437 of consumers of health services.

5438 (i) Each community service board which is composed of members who are appointed
5439 thereto by the governing authority of only one county shall have a minimum of six and no
5440 more than 13 members, not including any additional members appointed pursuant to
5441 paragraph (2) of subsection (b) of this Code section, notwithstanding the provisions of
5442 subsection (b) of this Code section, which members in all other respects shall be appointed
5443 as provided in this Code section.

5444 (j) No officer or employee of a community service board who has authority to take, direct
5445 others to take, recommend, or approve any personnel action shall take or threaten action
5446 against any employee of a community service board as a reprisal for making a complaint
5447 or disclosing information concerning the possible existence of any activity constituting
5448 fraud, waste, or abuse in or relating to the programs, operations, or client services of the
5449 board to the board or to a member of the General Assembly unless the complaint was made
5450 or the information was disclosed with the knowledge that it was false or with willful
5451 disregard for its truth or falsity. Any action taken in violation of this subsection shall give
5452 the public employee a right to have such action set aside in a proceeding instituted in the
5453 superior court.

5454 (k) A member of a community service board who after notice that such member has failed
5455 to complete any required training prescribed by the department pursuant to paragraph (6)
5456 ~~(4) of subsection (b)~~ of Code Section 37-1-20 continues such failure for 30 days may be
5457 removed from office by the remaining members of the community service board.

5458 (l) A member of a community service board may resign from office by giving written
5459 notice to the executive director of the community service board. The resignation is
5460 irrevocable after delivery to such executive director but shall become effective upon the
5461 date on which the notice is received or on the effective date given by the member in the
5462 notice, whichever date is later. The executive director, upon receipt of the resignation,
5463 shall give notice of the resignation to the remaining members of the community service
5464 board and to the chief executive officer or governing authority of the county that appointed
5465 the member.

5466 (m) The office of a member of a community service board shall be vacated upon such
 5467 member's resignation, death, or inability to serve due to medical infirmity or other
 5468 incapacity, removal by the community service board as authorized in this Code section or
 5469 upon such other reasonable condition as the community service board may impose under
 5470 its bylaws.

5471 (n) A member of a community service board may not enter upon the duties of office until
 5472 such member takes the following oath of office:

5473 STATE OF GEORGIA

5474 COUNTY OF _____

5475 I, _____, do solemnly swear or affirm that I will truly perform the
 5476 duties of a member of the _____ Community Service Board to the
 5477 best of my ability.

5478 I do further swear or affirm:

5479 (1) That I am not the holder of any unaccounted for public money due this state or any
 5480 political subdivision or authority thereof;

5481 (2) That I am not the holder of any office of trust under the government of the United
 5482 States, any other state, or any foreign state which I am by the laws of the State of Georgia
 5483 prohibited from holding;

5484 (3) That I am otherwise qualified to hold said office according to the Constitution and
 5485 the laws of Georgia; and

5486 (4) That I will support the Constitution of the United States and this state.

5487 _____

5488 Signature of member of

5489 _____ Community Service Board

5490 _____

5491 Typed name of member of

5492 _____ Community Service Board

5493 Sworn and subscribed

5494 before me this _____ day

5495 of _____, _____.

5496 (SEAL)

5497 37-2-6.1.

5498 (a) Each community service board shall employ an executive director to serve as its chief
 5499 executive officer who shall direct the day-to-day operations of the community service

5500 board. Such executive director shall be appointed and removed by the community service
5501 board and shall appoint other necessary staff pursuant to an annual budget adopted by the
5502 board, which budget shall provide for securing appropriate facilities, sites, and
5503 professionals necessary for the provision of disability and health services. The community
5504 service board may delegate any power, authority, duty, or function to its executive director
5505 or other staff. The executive director or other staff is authorized to exercise any power,
5506 authority, duty, or function on behalf of the community service board.

5507 (b) Each community service board, under the jurisdiction of its board, shall perform duties,
5508 responsibilities, and functions and may exercise power and authority described in this
5509 subsection. Each program may exercise the following power and authority:

5510 (1) Each community service board may adopt bylaws for the conduct of its affairs;
5511 provided, however, that the community service board shall meet at least quarterly, and
5512 that all such meetings and any bylaws shall be open to the public, as otherwise required
5513 under Georgia law;

5514 (2) Each community service board may make and enter into all contracts necessary and
5515 incidental to the performance of its duties and functions;

5516 (3) Each community service board may acquire by purchase, gift, lease, or otherwise and
5517 may own, hold, improve, use, and sell, convey, exchange, transfer, lease, sublease, and
5518 dispose of real and personal property of every kind and character, or any interest therein,
5519 for its corporate purposes;

5520 (4) Each community service board may contract to utilize the services of the Department
5521 of Administrative Services, the State Merit System of Personnel Administration, the state
5522 auditor, or any other agency of state, local, or federal government;

5523 (5) Each community service board may provide, either independently or through contract
5524 with appropriate state or local governmental entities, the following benefits to its
5525 employees, their dependents, and survivors, in addition to any compensation or other
5526 benefits provided to such persons:

5527 (A) Retirement, pension, disability, medical, and hospitalization benefits, through the
5528 purchase of insurance or otherwise, but medical and hospitalization benefits may only
5529 be provided through the Department of ~~Community~~ Health under the same conditions
5530 as provided for such benefits to state employees, and the Department of ~~Community~~
5531 Health shall so provide if requested;

5532 (B) Life insurance coverage and coverage under federal old age and survivors'
5533 insurance programs;

5534 (C) Sick leave, annual leave, and holiday leave; and

5535 (D) Any other similar benefits including, but not limited to, death benefits;

5536 (6) Each community service board may cooperate with all units of local government in
5537 the counties where the community service board provides services as well as neighboring
5538 regions and with the programs of other departments, agencies, and regional commissions
5539 and regional planning boards;

5540 (7) Each community service board shall establish and maintain a personnel program for
5541 its employees and fix the compensation and terms of compensation of its employees;
5542 provided, however, each community service board shall comply with the provisions of
5543 Chapter 20 of Title 45, relating to state personnel administration, for ~~as~~ so long as and to
5544 the extent that each employee of such board who is a covered employee as defined in
5545 Code Section 45-20-2 and is subject to the rules and regulations of the State Merit System
5546 of Personnel Administration remains in a covered position or as otherwise provided by
5547 law;

5548 (8) Each community service board may receive and administer grants, gifts, contracts,
5549 moneys, and donations for purposes pertaining to the delivery of disability services or of
5550 health services;

5551 (9) Each community service board may establish fees for the provision of disability
5552 services or health services according to the terms of contracts entered into with the
5553 department, Department of Human Resources Services, and the or Department of
5554 Community Health, as appropriate;

5555 (10) Each community service board may accept appropriations, loans of funds, facilities,
5556 equipment, and supplies from local governmental entities in the counties where the
5557 community service board provides services;

5558 (11) Each member of the community service board may, upon approval of the executive
5559 director, receive reimbursement for actual expenses incurred in carrying out the duties
5560 of such office; provided, however, such reimbursement shall not exceed the rates and
5561 allowances set for state employees by the Office of Planning and Budget or the mileage
5562 allowance for use of a personal car as that received by all other state officials and
5563 employees or a travel allowance of actual transportation cost if traveling by public
5564 carrier;

5565 (12) Each community service board shall elect a chairperson and vice chairperson from
5566 among its membership. The members shall also elect a secretary and treasurer from
5567 among its membership or may designate the executive director of the community service
5568 board to serve in one or both offices. Such officers shall serve for such terms as shall be
5569 prescribed in the bylaws of the community service board or until their respective
5570 successors are elected and qualified. No member shall hold more than one office of the
5571 community service board; except that the same person may serve as secretary and
5572 treasurer. The bylaws of the community service board shall provide for any other officers

5573 of such board and the means of their selection, the terms of office of the officers, and an
5574 annual meeting to elect officers;

5575 (13) Each community service board may have a seal and alter it;

5576 (14) Each community service board may contract with the State Merit System of
5577 Personnel Administration regarding its personnel who remain in the classified service;

5578 (15) Each community service board may establish fees, rates, rents, and charges for the
5579 use of facilities of the community service board for the provision of disability services
5580 or of health services through the Department of Health, in accordance with the terms of
5581 contracts entered into with the department, Department of Human Services, or
5582 Department of Health, as appropriate;

5583 (16) Each community service board may borrow money for any business purpose and
5584 may incur debt, liabilities, and obligations for any business purpose. A debt, liability, or
5585 obligation incurred by a community service board shall not be considered a debt, liability,
5586 or obligation of the state or any county or any municipality or any political subdivision
5587 of the state. A community service board may not borrow money as permitted by this
5588 Code section if the highest aggregate annual debt service requirements of the then current
5589 fiscal year or any subsequent year for outstanding borrowings of the community service
5590 board, including the proposed borrowing, exceed 15 percent of the total revenues of the
5591 community service board in its fiscal year immediately preceding the fiscal year in which
5592 such debt is to be incurred. Interest paid upon such borrowings shall be exempt from
5593 taxation by the state or its political subdivisions. A state contract with a community
5594 service board shall not be used or accepted as security or collateral for a debt, liability,
5595 or obligation of a community service board without the prior written approval of the
5596 commissioner;

5597 (17) Each community service board, to the extent authorized by law and the contract for
5598 the funds involved, may carry forward without lapse fund balances and establish
5599 operating, capital, and debt reserve accounts from revenues and grants derived from state,
5600 county, and all other sources; and

5601 (18) Each community service board may operate, establish, or operate and establish
5602 facilities deemed by the community service board as necessary and convenient for the
5603 administration, operation, or provision of disability services or of health services by the
5604 community service board and may construct, reconstruct, improve, alter, repair, and equip
5605 such facilities to the extent authorized by state and federal law.

5606 (c) Nothing shall prohibit a community service board from contracting with any county
5607 governing authority, private or other public provider, or hospital for the provision of
5608 disability services or of health services.

5609 (d) Each community service board exists for nonprofit and public purposes, and it is found
5610 and declared that the carrying out of the purposes of each community service board is
5611 exclusively for public benefit and its property is public property. Thus, no community
5612 service board shall be required to pay any state or local ad valorem, sales, use, or income
5613 taxes.

5614 (e) A community service board ~~does~~ shall not have the power to tax, the power to issue
5615 general obligation bonds or revenue bonds or revenue certificates, or the power to
5616 financially obligate the state or any county or any municipal corporation.

5617 (f) A community service board shall not operate any facility for profit. A community
5618 service board may fix fees, rents, rates, and charges that are reasonably expected to produce
5619 revenues, which, together with all other funds of the community service board, will be
5620 sufficient to administer, operate, and provide the following:

5621 (1) Disability services or health services;

5622 (2) The cost of acquiring, constructing, equipping, maintaining, repairing, and operating
5623 its facilities; and

5624 (3) The creation and maintenance of reserves sufficient to meet principal and interest
5625 payments due on any obligation of the community service board.

5626 (g) Each community service board may provide reasonable reserves for the improvement,
5627 replacement, or expansion of its facilities and services. Reserves under this subsection
5628 shall be subject to the limitations in paragraph (16) of subsection (b) of this Code section.

5629 (h) Each county and municipal corporation of this state is authorized to convey or lease
5630 property of such county or municipal corporation to a community service board for its
5631 public purposes. Any property conveyed or leased to a community services board by a
5632 county or municipal corporation shall be operated by such community service board in
5633 accordance with this chapter and the terms of the community service board's agreements
5634 with the county or municipal corporation providing such conveyance or lease.

5635 (i) Each community service board shall keep books of account reflecting all funds
5636 received, expended, and administered by the community service board which shall be
5637 independently audited annually.

5638 (j) A community service board may create, form, or become a member of a nonprofit
5639 corporation, limited liability company, or other nonprofit entity, the voting membership of
5640 which shall be limited to community service boards, governmental entities, nonprofit
5641 corporations, or a combination thereof, if such entity is created for purposes that are within
5642 the powers of the community service board, for the cooperative functioning of its members,
5643 or a combination thereof; provided, however, that no funds provided pursuant to a contract
5644 between the department, Department of Human Services, or Department of Health and the
5645 community service board may be used in the formation or operation of the nonprofit

5646 corporation, limited liability company, or other nonprofit entity. No community service
 5647 board, whether or not it exercises the power authorized by this subsection, shall be relieved
 5648 of compliance with Chapter 14 of Title 50, relating to open and public meetings, and
 5649 Article 4 of Chapter 18 of Title 50, relating to inspection of public records, unless
 5650 otherwise provided by law.

5651 (k) No community service board shall employ or retain in employment, either directly or
 5652 indirectly through contract, any person who is receiving a retirement benefit from the
 5653 Employees' Retirement System of Georgia except in accordance with the provisions of
 5654 subsection (c) of Code Section 47-2-110; provided, however, that any such person who is
 5655 employed as of July 1, 2004, may continue to be employed.

5656 (l) A community service board may join or form and operate, either directly or indirectly,
 5657 one or more networks of community service boards, disability or health service
 5658 professionals, and other providers of disability services or health services to arrange for the
 5659 provision of disability services or health services through such networks; to contract either
 5660 directly or through such networks with the Department of ~~Community~~ Health to provide
 5661 services to Medicaid beneficiaries; to provide disability services or health services in an
 5662 efficient and cost-effective manner on a prepaid, capitation, or other reimbursement basis;
 5663 and to undertake other disability or health services related managed care activities. For
 5664 purposes of this subsection only and notwithstanding Code Section 33-3-3 or any other
 5665 provision of law, a community service board shall be permitted to and shall comply with
 5666 the requirements of Chapter 20A of Title 33 to the extent that such requirements apply to
 5667 the activities undertaken by the community service board or by a community service board
 5668 under this subsection or subsection (j) of this Code section. No community service board,
 5669 whether or not it exercises the powers authorized by this subsection, shall be relieved of
 5670 compliance with Article 4 of Chapter 18 of Title 50, relating to inspection of public
 5671 records, unless otherwise provided by law. Any licensed health care provider shall be
 5672 eligible to apply to become a participating provider under such a plan or network that
 5673 provides coverage for health care, ~~or~~ disability services, or health services which are within
 5674 the lawful scope of the provider's license, but nothing in this Code section shall be
 5675 construed to require any such plan or network to provide coverage for any specific health
 5676 care, ~~or~~ disability service, or health service.

5677 37-2-6.2.

5678 (a)(1) Those employees whose job descriptions, duties, or functions as of June 30, 1994,
 5679 included the performance of employment duties or functions which will become
 5680 employment duties or functions of the personnel of a community service board on July
 5681 1, 1994, shall become employees of the applicable community service boards on and after

5682 July 1, 1994. Such employees shall be subject to the employment practices and policies
5683 of the applicable community service board on and after July 1, 1994. Employees who are
5684 subject to the State Merit System of Personnel Administration and who are transferred
5685 to a community service board shall retain all existing rights under the State Merit System
5686 of Personnel Administration. Retirement rights of such transferred employees existing
5687 under the Employees' Retirement System of Georgia or other public retirement systems
5688 on June 30, 1994, shall not be impaired or interrupted by the transfer of such employees
5689 and membership in any such retirement system shall continue in the same status
5690 possessed by the transferred employees on June 30, 1994, without any interruption in
5691 membership service and without the loss of any creditable service. For purposes of
5692 coverage under the Employees' Retirement System of Georgia, such employees
5693 transferred to the community service boards on July 1, 1994, shall be deemed to be state
5694 employees. Accrued annual and sick leave possessed by said employees on June 30,
5695 1994, shall be retained by said employees as employees of the community service board.
5696 Any person who is granted employment rights and benefits as a member of a community
5697 service board pursuant to this subsection and who later becomes employed, without any
5698 break in service, by the ~~division~~ department, Department of Human Services, or
5699 Department of Health, a hospital thereof, another community service board, a county
5700 board of health for which such person provides services pursuant to this title, or a
5701 regional board shall retain, in that later employment position, all such rights and benefits.
5702 Such rights and benefits shall also be retained by any person who is employed on June
5703 30, 1994, by the ~~division~~ former Division of Mental Health, Developmental Disabilities,
5704 and Addictive Diseases (now known as the Department of Behavioral Health) of the
5705 former Department of Human Resources, a hospital thereof, a county board of health for
5706 which such person provides services pursuant to this title, or a regional board and who
5707 later becomes employed, without any break in service, by a community service board.

5708 (2) Classified employees of a community service board under this chapter shall in all
5709 instances be employed and dismissed in accordance with rules and regulations of the
5710 State Merit System of Personnel Administration.

5711 (3) All rights, credits, and funds in the Employees' Retirement System of Georgia which
5712 are possessed by personnel transferred by provisions of this Code section to the
5713 community service boards are continued and preserved, it being the intention of the
5714 General Assembly that such persons shall not lose any rights, credits, or funds to which
5715 they may be entitled prior to becoming employees of the community service boards.

5716 (b) As to those persons employed by the ~~division~~ former Division of Mental Health,
5717 Developmental Disabilities, and Addictive Diseases (now known as the Department of
5718 Behavioral Health) of the former Department of Human Resources, a hospital thereof, or

5719 a regional board on June 30, 1994, any termination from state employment after that date
 5720 of any such person who is a member of the classified service shall not result from the
 5721 anticipated or actual employment or utilization by:

5722 (1) The department;

5723 (2) A regional board;

5724 (3) A community service board;

5725 (4) A hospital; ~~or~~

5726 (5) The Department of Human Services;

5727 (6) The Department of Health; or

5728 ~~(5)(7)~~ Any private provider of disability services or health services of any person who
 5729 is not an employee of the state or a political subdivision thereof to perform the duties and
 5730 functions of such terminated state personnel unless such termination and utilization is the
 5731 result of a reduction in appropriations for such duties or functions or is the result of a
 5732 reduction in force caused by any other state department or agency which has ceased to
 5733 contract with the department, the Department of Human Services, or the Department of
 5734 Health for the services which had been provided by the terminated state personnel.

5735 37-2-6.3.

5736 (a) A community service board is a public body as provided in paragraph (1) of subsection
 5737 (c) of Code Section 37-2-11.1.

5738 (b) A community service board has the power to bring an action in its own name and, to
 5739 the extent otherwise authorized by law and to the extent not immune from suit, may be
 5740 sued in its own name. The state and the counties in which the community service board
 5741 operates shall not be considered a party to or liable under any such litigation.

5742 (c) Debts, obligations, and liabilities of a community service board are not; debts,
 5743 obligations, or liabilities of the state or of the counties in which such board operates. A
 5744 community service board is prohibited from entering into debts, obligations, or liabilities
 5745 which are also debts, obligations, or liabilities of the state or of any county.

5746 37-2-6.4.

5747 (a) Notwithstanding any other provisions of this chapter, a community service board may
 5748 reconstitute or convert its organizational structure in the following ways:

5749 (1) With the approval of the governing board of the community service board and the
 5750 approval of the county governing authorities of the counties served by the community
 5751 service board, the community service board may convert to a private nonprofit
 5752 corporation. So long as the reconstituted organization continues to serve a public purpose
 5753 as defined by the department, the Department of Human Services, or the Department of

5754 Health, as appropriate, such organization shall be authorized to retain the use of assets,
 5755 equipment, and resources purchased with state and federal funds by the former
 5756 community service board. In the event the new private nonprofit fails to serve such
 5757 public purpose, those assets, equipment, and resources purchased by the former
 5758 community service board with state and federal funds shall be returned to the department,
 5759 the Department of Human Services, or the Department of Health, as appropriate, or to an
 5760 agency designated by ~~the~~ such department. For a period of three years following the
 5761 community service board's conversion to a private nonprofit corporation, the private
 5762 nonprofit corporation shall ensure that consumers of disability services or health services,
 5763 as appropriate, and family members of such consumers constitute a majority of the
 5764 appointed board members and that the various disability groups and health services
 5765 groups are equitably represented on the board of the nonprofit corporation;

5766 (2) With the approval of the governing board of the community service board and the
 5767 approval of all of the county governing authorities of the counties served by the
 5768 community service board, the community service board may convert to a unit of county
 5769 government. All assets, equipment, and resources of the community service board shall
 5770 be transferred to the new unit of county government; or

5771 (3) With the approval of the governing board of the community service board and the
 5772 approval of all of the county governing authorities of the counties served by the
 5773 community service board, the community service board may become a component part
 5774 of a hospital authority in those counties served by the community service board. So long
 5775 as the hospital authority continues to serve a public purpose as defined by the department,
 5776 the Department of Human Services, or the Department of Health, as appropriate, the
 5777 hospital authority shall be authorized to retain possession of those assets, equipment, and
 5778 resources purchased by the community service board with state and federal funds. In the
 5779 event the hospital authority fails to serve such public purpose, those assets, equipment,
 5780 and resources purchased by the community service board with state and federal funds
 5781 shall be returned to the department, the Department of Human Services, or the
 5782 Department of Health, as appropriate, or to an agency designated by ~~the~~ such appropriate
 5783 department or departments.

5784 (b) In the event that all county governing authorities of a community service area
 5785 designated pursuant to subsection (b) of Code Section 37-2-3 concur that a community
 5786 service board reconstituted pursuant to subsection (a) of this Code section has failed to
 5787 provide disability services or health services as required, those county governing
 5788 authorities may request that the ~~division~~ department coordinate the formation of a new
 5789 community service board pursuant to Code Section 37-2-6. Upon notification of the
 5790 request, the ~~division~~ department shall assist the county governing authorities in making

5791 appointments to the new community service board and establishing bylaws pursuant to
 5792 Code Section 37-2-6. The ~~division~~ department shall make a determination about the
 5793 disposition of all assets, equipment, and resources purchased with state or federal funding
 5794 in the possession of the predecessor agency. To the extent that the community service
 5795 board was providing disability services or health services through the Department of
 5796 Human Services or the Department of Health, such department or departments shall
 5797 provide to the Department of Behavioral Health all documents, data, information, and
 5798 consultation necessary or helpful to the formation of the new community service board and
 5799 the determination and disposition of assets, equipment, and resources of the community
 5800 service board.

5801 37-2-6.5.

5802 (a) By joint action of the membership of a community service board created pursuant to
 5803 Code Section 37-2-6 and the governing authority of each county within the community
 5804 service board area, such community service board may cease operations; provided,
 5805 however, such community service board shall notify the commissioner at least 90 days in
 5806 advance of the meeting of the community service board in which such action is to be taken.
 5807 Such joint action shall indicate the date on which the community service board shall cease
 5808 operations.

5809 (b) Upon receipt of notification that a community service board intends to cease
 5810 operations, the commissioner shall notify the chairperson and executive director of such
 5811 community service board and the governing authority of each county within the community
 5812 service board area of such board that:

5813 (1) The department, after securing the approval of the Governor, intends to appoint a
 5814 manager or management team to manage and operate the programs and services of the
 5815 community service board in accordance with the provisions of paragraph (1) of
 5816 subsection (c) of Code Section 37-2-10 until the ~~division~~ department shall determine:

5817 (A) That such community service board should continue in operation, provided one or
 5818 more members appointed to such board in accordance with subsection (b) of Code
 5819 Section 37-2-6 shall be removed in accordance with subparagraph (c)(3)(H) of Code
 5820 Section 37-2-10, and the ~~division~~ department, acting on behalf of the membership of
 5821 the community service board, nominates a successor to a removed member and advises
 5822 the county governing authority that appointed such removed member to appoint a
 5823 successor;

5824 (B) That all of the members of such community service board appointed in accordance
 5825 with subsection (b) of Code Section 37-2-6 shall be removed and such community
 5826 service board shall be reconstituted; and that the ~~division~~ department shall assist the

5827 county governing authorities in making appointments to the new community service
5828 board; or

5829 (C) In the case where the membership of such community service board is the
5830 membership of a county board of health designated in accordance with Code Section
5831 31-3-12.1 or subsection (e) of Code Section 37-2-6, that the entire membership of the
5832 community service board should be removed and the membership of the community
5833 service board be reconstituted in accordance with subsection (b) of Code Section
5834 37-2-6;

5835 (2) The ~~division~~ department, with the approval of the commissioner, intends to
5836 redesignate the boundaries of the community service board area served by such board
5837 pursuant to paragraph (1) of subsection (b) of Code Section 37-2-3 by expanding the
5838 boundaries of an adjacent community service board area served by another community
5839 service board to include the counties in the community service board area served by the
5840 community service board that intends to cease operations so that the community service
5841 board serving such adjacent area may assume responsibility for the provision of disability
5842 services within such counties;

5843 (3) The department intends to request pursuant to Code Section 31-3-12.1 that the
5844 governing authority of a county within the community service board area of such board
5845 authorize the membership of the board of health of such county to serve as the
5846 membership of such community service board; or

5847 (4) The department, after securing the approval of the Governor, intends to appoint a
5848 manager or management team to manage and operate the programs and services of the
5849 community service board until such time as arrangements can be made to secure one or
5850 more alternate service providers to assume responsibility for the provision of services
5851 previously provided by the community service board.

5852 (c) If a community service board ceases operation and is succeeded by another community
5853 service board pursuant to paragraph (2), a county board of health pursuant to paragraph (3),
5854 or a manager or management team pursuant to paragraph (4) of subsection (b) of this Code
5855 section, the ~~division~~ department shall make a determination about the disposition of all
5856 assets, equipment, and resources purchased with state or federal funding in the possession
5857 of the predecessor community service board.

5858 (d) If a community service board ceases operation and one or more alternate service
5859 providers assume responsibility for the provision of services previously provided by the
5860 community service board pursuant to paragraph (4) of subsection (b) of this Code section,
5861 the department shall petition the superior court of the county in which the principal office
5862 of that community service board was located for appointment of a receiver of the assets of
5863 the community service board for the protection of the board's creditors and the public. The

5864 receiver shall be authorized to marshal and sell or transfer assets of the board, and, after
5865 payment of the costs, expenses, and approved fees of the proceeding, to pay the liabilities
5866 of the community service board. The court shall then decree that the board be dissolved.
5867 Upon completion of the liquidation, any surplus remaining after paying all costs of the
5868 liquidation shall be distributed, as determined by the court, to the agencies, entities, or
5869 providers providing disability services in the community service board area formerly
5870 served by the community service board which ceased operations. At no time shall any
5871 community service board upon ceasing operations convey any of its property, except as
5872 may be otherwise authorized by a superior court in this subsection, to any private person,
5873 association, or corporation.

5874 37-2-7.

5875 (a) The ~~division~~ department shall formulate and publish biennially a state plan for
5876 disability services which shall take into account the disability services plans submitted by
5877 the regional offices as required by Code Section 37-2-5.2. The state disability services plan
5878 shall be comprehensive and shall include public and private institutional and community
5879 services to the disabled. In developing the state plan, the ~~division~~ department shall request
5880 input from the regional offices and planning boards, the community service boards,
5881 hospitals, and other public and private providers. The plan shall include an overview of
5882 current services and programs and shall also present information on future program,
5883 service, educational, and training needs.

5884 (b) The plan shall address ways of eliminating, to the extent possible, detrimental delays
5885 and interruptions in the administration of disability services when moving an individual
5886 from one element of service to another in order to ensure continuity of care and treatment
5887 for persons receiving such services.

5888 (c) The plan shall further set forth the proposed annual budget of the ~~division~~ department
5889 and the regions.

5890 (d) The plan shall be submitted to the department, the Governor, the General Assembly,
5891 the ~~Governor's~~ council, the regional planning boards, the hospitals, the community service
5892 boards, and any other public or private provider requesting a copy of the plan.

5893 (e) At such time as the state plan is submitted, the ~~division~~ department shall further submit
5894 an analysis of services provided, programs instituted, progress made, and the extent of
5895 implementation of the previous biennial plan. Such analysis shall measure the
5896 effectiveness and the efficiency of the methods of delivering services which ameliorate or
5897 prevent disability and restore health. This analysis shall further address the efforts of the
5898 ~~division~~ department in coordinating services in accordance with Code Section 37-2-9.

- 5899 37-2-8.
- 5900 Reserved.
- 5901 37-2-9.
- 5902 To the maximum extent possible, disability services provided by the ~~division~~department
- 5903 and the regional offices, hospitals, community service boards, and other public and private
- 5904 providers shall be coordinated with related activities of the department and judicial,
- 5905 correctional, educational, social, and other health service agencies and organizations, both
- 5906 private and public.
- 5907 37-2-9.1.
- 5908 (a) Each regional planning board and community service board shall comply with the
- 5909 provisions of Chapter 14 of Title 50, relating to open and public meetings, and Article 4
- 5910 of Chapter 18 of Title 50, relating to inspection of public records, except where records or
- 5911 proceedings are expressly made confidential pursuant to other provisions of law.
- 5912 (b) Each regional office and community service board and other public and private
- 5913 providers are authorized to establish one or more advisory boards for the purpose of
- 5914 ensuring coordination with various agencies and organizations and providing professional
- 5915 and other expert guidance.
- 5916 37-2-10.
- 5917 (a) Notwithstanding any other provisions of the law, the ~~director~~commissioner with the
- 5918 concurrence of ~~the commissioner~~ and the Governor is authorized to establish and
- 5919 administer community programs on an emergency basis in the event one or more
- 5920 community service boards fail to assume responsibility for the establishment and
- 5921 implementation of an adequate range of disability services or to provide appropriate
- 5922 disability services as determined by the ~~division~~department or substantially breach their
- 5923 contracts with the department pursuant to this chapter.
- 5924 (b) Upon notification by a community service board of an inability to provide an adequate
- 5925 range of disability services or to provide appropriate services, the ~~director~~commissioner,
- 5926 with concurrence of ~~the commissioner~~ and the Governor, may:
- 5927 (1) Assume responsibility for the administration and operation of all of the community
- 5928 programs operated by or through such board and, in which case, the programs shall
- 5929 become department programs; the department shall acquire the assets of the community
- 5930 service board; and the community service board employees shall become employees of
- 5931 the department; or

5932 (2) Assume responsibility for the administration and operation of one or more of the
 5933 community programs operated by or through such board, in which case, such program
 5934 or programs shall become a department program or programs; the department shall
 5935 acquire those assets of the community service board assigned to such program or
 5936 programs; and the employees of such program or programs shall become employees of
 5937 the department. Any community service board programs not transferred to the
 5938 department shall continue to be operated by the community service board and the
 5939 employees for such programs shall remain community service board employees.

5940 (c)(1) Notwithstanding any other provisions of the law, in extenuating circumstances, the
 5941 ~~director~~ commissioner with the concurrence of ~~the commissioner and the~~ Governor is
 5942 authorized to appoint a manager or management team to manage and operate the
 5943 programs and services of the community service board if the ~~director~~ commissioner finds
 5944 that the community service board:

5945 (A) Provides notice pursuant to Code Section 37-2-6.5 that such board intends to cease
 5946 operations;

5947 (B) Intentionally, recklessly, or negligently failed to discharge its duties pursuant to a
 5948 contract with the department;

5949 (C) Misused state or federal funds;

5950 (D) Engaged in a fraudulent act, transaction, practice, or course of business;

5951 (E) Endangered the life, safety, or health of a consumer served by the community
 5952 service board;

5953 (F) Failed to keep fiscal records and maintain proper control over its assets;

5954 (G) Failed to respond to a substantial deficiency in a review or audit;

5955 (H) Otherwise substantially failed to comply with this chapter or the rules or standards
 5956 of the department ~~or division~~; or

5957 (I) No longer has the fiscal ability to continue to provide contracted services and,
 5958 without the intervention of the department, continued provision of disability services
 5959 or health services to consumers in the service area is in immediate jeopardy.

5960 (2) In order to carry out the provisions of paragraph (1) of this subsection, the ~~director~~
 5961 commissioner shall give written notice to the community service board regarding the
 5962 appointment of a manager or management team and the circumstances on which the
 5963 appointment is based. The ~~director~~ commissioner may require the community service
 5964 board to pay costs incurred by the manager or management team.

5965 (3) Subject to the determination of the ~~director~~ commissioner, a manager or management
 5966 team appointed pursuant to this subsection may:

5967 (A) Evaluate, redesign, modify, administer, supervise, or monitor a procedure,
 5968 operation, or the management of the community service board;

- 5969 (B) Hire, supervise, discipline, reassign, or terminate the employment of an employee
 5970 of the community service board;
- 5971 (C) Reallocate the resources and manage the assets of the community service board;
- 5972 (D) Require that a financial transaction, expenditure, or contract for goods and services
 5973 be approved by the manager or management team;
- 5974 (E) Redesign, modify, or terminate a program or service of the community service
 5975 board;
- 5976 (F) Direct the members of the community service board, the executive director, chief
 5977 financial officer, or any other administrative or program manager to take an action;
- 5978 (G) Exercise a power, duty, authority, or function of the community service board as
 5979 authorized by this chapter;
- 5980 (H) Recommend to the ~~director~~ commissioner the removal of a member or the
 5981 executive director of the community service board; and the provisions of any law to the
 5982 contrary notwithstanding, the ~~director~~ commissioner may remove such member or
 5983 executive director from office; and
- 5984 (I) Report at least monthly to the ~~director~~ commissioner on actions taken.
- 5985 (4) A manager or management team appointed pursuant to this subsection may not use
 5986 or dispose of any asset or funds contributed to the community service board by the
 5987 governing authority of a county or municipal corporation without the approval of such
 5988 governing authority.
- 5989 (5) If a manager or management team is appointed pursuant to this Code section, the
 5990 department may:
- 5991 (A) Upon a determination that the conditions that gave rise to the appointment of a
 5992 manager or management team pursuant to this subsection have been met and that such
 5993 manager or management team is no longer necessary, terminate the authority delegated
 5994 to such manager or management team and restore authority to the community service
 5995 board to manage and operate the services and programs of the community service
 5996 board; or
- 5997 (B) Operate and manage the programs of the community service board until such time
 5998 as arrangements can be made to secure one or more alternative service providers to
 5999 assume responsibility for the provision of services previously provided by the
 6000 community service board. If this option is exercised, the department shall petition the
 6001 appropriate superior court for appointment of a receiver pursuant to subsection (d) of
 6002 Code Section 37-2-6.5.
- 6003 (6) Nothing in this subsection shall be construed to prohibit the department from
 6004 canceling a contract with a community service board.

6005 37-2-11.

6006 (a) It is the goal of the State of Georgia that every citizen be provided an adequate level
6007 of disability care through a unified system of disability services. To this end, the
6008 department ~~through the division~~ shall, to the maximum extent possible, allocate funds
6009 available for services so as to provide an adequate disability services program available to
6010 all citizens of this state. In funding and providing disability services, the ~~division~~
6011 department and the regional offices shall ensure that all providers, public or private, meet
6012 minimum standards of quality and competency as established by the department ~~and the~~
6013 division.

6014 (b) Fees generated, if any, by hospitals, community service boards, and other private and
6015 public providers, providing services under contract or purview of the ~~division~~ department,
6016 shall be reported to the ~~division~~ department and applied wherever appropriate against the
6017 cost of providing, and increasing the quantity and quality of, disability services; provided,
6018 however, that income to a community service board derived from fees may be used to
6019 further the purposes of such community service board as found in Code Section 37-3-6.1,
6020 subject to appropriations. The ~~division~~ department shall be responsible for developing
6021 procedures to properly account for the collection, remittance, and reporting of generated
6022 fees. The ~~division~~ department shall work with the community service boards and other
6023 public or private providers to develop an appropriate mechanism for accounting for the
6024 funds and resources contributed to local disability services by counties and municipalities
6025 within the area. Such contributions are not required to be submitted to either the
6026 community service boards or the ~~division~~ department; however, appropriate documentation
6027 and accounting entries shall make certain that the county or municipality is credited, and
6028 if necessary compensated, appropriately for such contribution of funds or resources.

6029 (c) No person shall be denied disability services provided by the state as defined in this
6030 chapter based on age, gender, race, ethnic origin, or inability to pay; provided, however,
6031 unless otherwise prohibited by law or contract, providers of disability services may deny
6032 nonemergency disability services to any person who is able to pay, but who refuses to pay.
6033 The ~~division~~ department shall develop a state-wide sliding fee scale for the provision of
6034 disability services and shall promulgate standards that define emergency disability services
6035 and refusal to pay.

6036 37-2-11.1.

6037 (a) Venue for the purpose of any action against a community service board shall be the
6038 county in which the principal office of the community service board is located. For
6039 purposes of this Code section, 'principal office' shall be defined as the facility which houses
6040 the executive director or other such top administrator for the community service board.

6041 (b) In any legal proceeding, a regional planning board or the regional office shall be
 6042 considered a unit of the ~~division~~ department and shall be afforded the assistance of legal
 6043 counsel from the Attorney General.

6044 (c)(1) The community service boards shall be public bodies but shall not be considered
 6045 agencies of the state or any specific county or municipality. Such community service
 6046 boards are public agencies in their own right and shall have the same immunity as
 6047 provided for counties. No county shall be liable for any action, error, or omission of a
 6048 community service board. Notwithstanding any provisions of law to the contrary, and
 6049 regardless of any provisions of law which grant employees of the community service
 6050 boards benefits under programs operated by the state or which deem them to be state
 6051 employees only for purposes of those benefits, employees of the community service
 6052 boards shall not be employees of the state but shall be employees of the community
 6053 service boards and, further, the state shall not be liable for any action, error, or omission
 6054 of such employees.

6055 (2) A community service board may employ or contract for legal counsel to assist in
 6056 performing its duties and shall be authorized to appoint legal counsel to represent the
 6057 community service board and its employees. The community service board may exercise
 6058 any authority granted in Article 2 of Chapter 9 of Title 45, relating to the indemnification,
 6059 defense, and insuring of members and employees of public bodies.

6060 37-2-11.2.

6061 (a) Notwithstanding any other law to the contrary, to ensure the quality and integrity of
 6062 patient and client care, any program receiving any public funds from, or subject to
 6063 licensing, certification, or facility approval by, the department, the Department of Human
 6064 ~~Resources~~ Services, the Department of Health, or a regional office shall be required to
 6065 provide the department or the appropriate regional office or both, upon request, complete
 6066 access to, including but not limited to authorization to examine and reproduce, any records
 6067 required to be maintained in accordance with contracts, standards, or rules and regulations
 6068 of the department, the Department of Human ~~Resources~~ Services, or the Department of
 6069 Health or pursuant to the provisions of this title.

6070 (b) Records obtained pursuant to subsection (a) of this Code section shall not be
 6071 considered public records and shall not be released by the department, the Department of
 6072 Human Services, the Department of Health, or any regional office unless otherwise
 6073 specifically authorized by law.

6074 (c) The community service board shall maintain a clinical record for each consumer
 6075 receiving treatment or habilitation services from such board. The treatment of clinical
 6076 records of consumers in receiving services for mental illness shall be governed by the

6077 provisions of Code Section 37-3-166. The treatment of clinical records of consumers
 6078 receiving habilitation services for developmental disabilities shall be governed by the
 6079 provisions of Code Section 37-4-125. The treatment of clinical records of consumers in
 6080 treatment for addictive diseases shall be governed by the provisions of Code Section
 6081 37-7-166."

6082 **SECTION 3-2.**

6083 The following Code sections of the Official Code of Georgia Annotated are amended by
 6084 replacing "Department of Human Resources" wherever it occurs with "Department of
 6085 Behavioral Health":

- 6086 (1) Code Section 15-11-73, relating to juvenile traffic offenses;
- 6087 (2) Code Section 15-11-152, relating to ordering an evaluation of a child's mental
 6088 condition;
- 6089 (3) Code Section 16-7-83, relating to persons convicted or under indictment for certain
 6090 offenses;
- 6091 (4) Code Section 16-11-129, relating to license to carry pistol or revolver;
- 6092 (5) Code Section 17-7-130, relating to proceedings upon plea of mental incompetency
 6093 to stand trial;
- 6094 (6) Code Section 17-7-131, relating to proceedings upon plea of insanity or mental
 6095 incompetency at time of crime;
- 6096 (7) Code Section 26-4-5, relating to definitions relative to the "Georgia Pharmacy
 6097 Practice Act";
- 6098 (8) Code Section 33-24-28, relating to termination of coverage of dependent child upon
 6099 attainment of specified age;
- 6100 (9) Code Section 37-3-146, relating to education of children undergoing treatment in a
 6101 facility for persons who are mentally ill;
- 6102 (10) Code Section 37-3-150, relating to right to appeal orders of probate court, juvenile
 6103 court, or hearing examiner;
- 6104 (11) Code Section 37-4-4, relating to coordination of training programs for the mentally
 6105 retarded;
- 6106 (12) Code Section 37-4-110, relating to appeal rights of clients, their representatives, or
 6107 attorneys relating to habilitation of mentally retarded persons;
- 6108 (13) Code Section 37-5-4, relating to applicability of the "Community Services Act for
 6109 the Mentally Retarded";
- 6110 (14) Code Section 37-5-7, relating to duty of the Department of Human Resources to
 6111 provide consulting and financial assistance to county boards of health;

- 6112 (15) Code Section 37-7-3, relating to coordination of state drug and alcohol abuse
 6113 programs;
- 6114 (16) Code Section 37-7-146, relating to education of children undergoing treatment in
 6115 a facility for persons who are alcoholics, drug dependent individuals, or drug abusers;
- 6116 (17) Code Section 37-7-150, relating to right to appeal orders of probate court, juvenile
 6117 court, or hearing examiner;
- 6118 (18) Code Section 40-5-82, relating to administration of the Driver Improvement
 6119 Program;
- 6120 (19) Code Section 42-1-13, relating to the Sexual Offender Registration Review Board;
- 6121 (20) Code Section 42-8-35.3, relating to conditions of probation for stalking or
 6122 aggravated stalking;
- 6123 (21) Code Section 42-9-41, relating to duty of the State Board of Pardons and Paroles
 6124 to obtain and place in records information respecting persons subject to relief or placed
 6125 on probation;
- 6126 (22) Code Section 43-12A-5, relating to provider centers that engage in the practice of
 6127 providing, installing, or monitoring ignition interlock devices not to operate under any
 6128 name deceptively similar to another business;
- 6129 (23) Code Section 45-9-4.2, relating to liability coverage for nonprofit agencies
 6130 providing services to the mentally retarded;
- 6131 (24) Code Section 49-5-221, relating to definitions relative to children and adolescents
 6132 with severe emotional problems;
- 6133 (25) Code Section 49-5-223, relating to the State Plan for the Coordinated System of
 6134 Care for children and adolescents with severe emotional problems;
- 6135 (26) Code Section 49-5-224, relating to the submission by the commissioner of human
 6136 resources of an annual report on the State Plan for the Coordinated System of Care;
- 6137 (27) Code Section 49-5-227, relating to the Governor's Office for Children and Families
 6138 to comment on the State Plan for Coordinated System of Care and provide
 6139 recommendations; and
- 6140 (28) Code Section 50-27-24, relating to lottery prize proceeds subject to state income tax.

6141 **SECTION 3-3.**

6142 The following Code sections of the Official Code of Georgia Annotated are amended by
 6143 replacing "commissioner of human resources" wherever it occurs with "commissioner of
 6144 behavioral health":

- 6145 (1) Code Section 42-1-13, relating to the Sexual Offender Registration Review Board;
 6146 and

6147 (2) Code Section 49-5-224, relating to the submission by the commissioner of human
6148 resources of an annual report on the State Plan for the Coordinated System of Care;

6149 **SECTION 3-4.**

6150 The following Code sections of the Official Code of Georgia Annotated are amended by
6151 replacing "Division of Mental Health, Developmental Disabilities, and Addictive Diseases
6152 of the Department of Human Resources" wherever it occurs with "Department of Behavioral
6153 Health":

- 6154 (1) Code Section 15-11-149, relating to disposition of mentally ill or mentally retarded
6155 child;
- 6156 (2) Code Section 40-5-64, relating to limited driving permits for certain offenders;
- 6157 (3) Code Section 45-18-5.2, relating to sheltered employment center employees; and
- 6158 (4) Code Section 49-4A-9, relating to sentence of youthful offenders.

6159 **SECTION 3-5.**

6160 The following Code sections of the Official Code of Georgia Annotated are amended by
6161 replacing "mentally retarded" or "Mentally Retarded" wherever it occurs with
6162 "developmentally disabled" or "Developmentally Disabled", respectively:

- 6163 (1) Code Section 31-22-9.1, relating to who may perform HIV tests;
- 6164 (2) Code Section 35-1-8, relating to the acquisition, collection, classification, and
6165 preservation of information assisting in identifying deceased persons and locating missing
6166 persons;
- 6167 (3) Code Section 37-4-1, relating to the declaration of policy relating to the habilitation
6168 of mentally retarded persons generally;
- 6169 (4) Code Section 37-4-3, relating to the authority of the board of human resources to
6170 issue regulations relating to the habilitation of mentally retarded persons generally;
- 6171 (5) Code Section 37-4-4, relating to coordination of training programs for the mentally
6172 retarded;
- 6173 (6) Code Section 37-4-5, relating to validity of hospital orders entered before September
6174 1, 1978;
- 6175 (7) Code Section 37-4-8, relating to approval of private facilities;
- 6176 (8) Code Section 37-4-20, relating to examination of minor children;
- 6177 (9) Code Section 37-4-21, relating to admission of mentally retarded persons to facilities
6178 for purposes of temporary supervision and care;
- 6179 (10) Code Section 37-4-22, relating to admission of persons to facilities for dental
6180 services;

- 6181 (11) Code Section 37-4-40, relating to filing petition with the court for according of
6182 program of services to mentally retarded person;
- 6183 (12) Code Section 37-4-40.1, relating to certification that a person requires temporary
6184 care;
- 6185 (13) Code Section 37-4-40.2, relating to admission or discharge of a person in custody
6186 of a state facility for temporary care;
- 6187 (14) Code Section 37-4-42, relating to procedure for continuation of court ordered
6188 habilitation;
- 6189 (15) Code Section 37-4-62, relating to transfer of clients to custody of federal agencies
6190 for services;
- 6191 (16) Code Section 37-4-120, relating to individual dignity of clients to be respected;
- 6192 (17) Code Section 37-4-123, relating to recognition of clients' physical integrity;
- 6193 (18) Code Section 37-5-1, relating to the short title;
- 6194 (19) Code Section 37-5-2, relating to declaration of policy relative to community
6195 services for the mentally retarded;
- 6196 (20) Code Section 37-5-4, relating to applicability of chapter;
- 6197 (21) Code Section 37-5-5, relating to duty of county board of health to provide
6198 community services;
- 6199 (22) Code Section 37-5-6, relating to county or health district plan for community
6200 services;
- 6201 (23) Code Section 37-5-7, relating to duty of department to provide consulting and
6202 financial assistance to county boards of health;
- 6203 (24) Code Section 37-6-2, relating to participation by department in financing of
6204 day-care centers for mentally retarded children;
- 6205 (25) Code Section 37-6-3, relating to participation by department in financing of
6206 day-care centers generally;
- 6207 (26) Code Section 37-6-4, relating to grants-in-aid to county board of health for purchase
6208 of services from private day-care centers;
- 6209 (27) Code Section 37-6-6, relating to inspection and approval of day-care centers;
- 6210 (28) Code Section 37-6-7, relating to departmental standards for day-care centers;
- 6211 (29) Code Section 37-9-6, relating to standards for determination of assessments for less
6212 than full cost of care;
- 6213 (30) Code Section 45-9-4.2, relating to liability coverage for nonprofit agencies
6214 providing services to the mentally retarded;
- 6215 (31) Code Section 49-4-51, relating to definitions relative to the "Aid to the Blind Act";
6216 and
- 6217 (32) Code Section 49-4-80, relating to definitions relative to aid to the disabled.

6218

SECTION 3-6.

6219

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

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6221

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

6222

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

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(3) Code Section 33-24-28, relating to termination of coverage of dependent child upon attainment of specified age;

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(4) Code Section 37-4-40.4, relating to evaluation of a person in custody of a state facility for temporary care;

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

6228

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

6229

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

6230

6231

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

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SECTION 3-7.

6233

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

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(1) Code Section 31-20-3, relating to sterilization of mentally incompetent persons;

6236

(2) Code Section 37-4-80, relating to effect of inability to pay on right to habilitation services;

6237

6238

(3) Code Section 37-4-100, relating to retention of rights and privileges by clients generally; and

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6240

(4) Code Section 37-4-122, relating to client's care and treatment rights.

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SECTION 3-8.

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

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6244

"30-8-1.

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

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(b) The members of the council shall be appointed by the Governor from among the residents of the state, and the composition of the council shall comply with the membership requirements of Chapter 75 of Title 42 of the United States Code, as now or hereafter amended. The Governor shall consider appointing to the council persons representing a

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6253 broad range of individuals with developmental disabilities and individuals interested in
6254 programs for the developmentally disabled. To the extent feasible, appointments to the
6255 council shall be made with a view toward equitable geographic, racial, and ethnic
6256 representation.

6257 (c) Each member shall serve for a term of four years or until a successor is appointed.
6258 Members shall be eligible to succeed themselves. Vacancies shall be filled in the same
6259 manner as original appointments. The council shall elect its own chairperson and such
6260 other officers as it deems necessary. The council may adopt rules and procedures and shall
6261 meet at the call of the chairperson.

6262 (d) The ~~Governor's~~ Georgia Council on Developmental Disabilities shall:

6263 (1) Develop and implement a state plan, which includes the specification of federal and
6264 state priority areas, to address on a state-wide and comprehensive basis the need for
6265 services, support, and other assistance for individuals with developmental disabilities and
6266 their families;

6267 (2) Monitor, review, and evaluate, not less than annually, the implementation and
6268 effectiveness of the plan;

6269 (3) Submit to the United States secretary of health and human services, through the
6270 Governor, such plan and periodic reports on the council's activities as the secretary finds
6271 necessary;

6272 (4) Receive, account for, and disburse funds paid to the state pursuant to the provisions
6273 of Chapter 75 of Title 42 of the United States Code, as now or hereafter amended, and
6274 as authorized by the approved state plan;

6275 (5) To the maximum extent feasible, review and comment on all plans in the state which
6276 relate to programs affecting persons with developmental disabilities;

6277 (6) Serve as an advocate for persons with developmental disabilities;

6278 (7) Advise the Governor, the General Assembly, and all other state agencies in matters
6279 relating to developmentally disabled persons; and

6280 (8) Fulfill the responsibilities and meet the requirements of a designated state agency and
6281 of a state planning council as provided by Chapter 75 of Title 42 of the United States
6282 Code, as now or hereafter amended.

6283 (e) The ~~Governor's~~ Georgia Council on Developmental Disabilities shall be attached to the
6284 Department of ~~Human Resources~~ Behavioral Health for administrative purposes only as
6285 provided in Code Section 50-4-3. The council shall recruit and hire staff as provided by
6286 law and as the council determines necessary to carry out its duties. All costs incurred by
6287 the council shall be covered by funds paid to the state under Chapter 75 of Title 42 of the
6288 United States Code, as now or hereafter amended, except that members who are state
6289 employees shall be reimbursed for their expenses by their agency in the same manner as

6290 other state employees. Members who are not state employees shall be reimbursed for their
 6291 actual expenses, including travel and any other expenses incurred in performance of their
 6292 council duties, from funds appropriated to the Department of ~~Human Resources~~ Behavioral
 6293 Health."

6294 SECTION 3-9.

6295 Code Section 35-3-34.1 of the Official Code of Georgia Annotated, relating to circumstances
 6296 when exonerated first offender's criminal record may be disclosed, is amended by revising
 6297 paragraph (3) of subsection (a) as follows:

6298 "(3) The request for information is an inquiry about a person who has applied for
 6299 employment with a facility as defined in Code Section 37-3-1 or 37-4-2 that provides
 6300 services to persons who are mentally ill as defined in Code Section ~~37-3-1~~ 37-1-1 or
 6301 ~~mentally retarded~~ developmentally disabled as defined in Code Section ~~37-4-2~~ 37-1-1,
 6302 and the person who is the subject of the inquiry to the center was prosecuted for the
 6303 offense of sexual battery, incest, pimping, or pandering."

6304 SECTION 3-10.

6305 Code Section 37-2-30 of the Official Code of Georgia Annotated, relating to definitions
 6306 relative to the office of disability services ombudsman, is amended by revising paragraph (3)
 6307 as follows:

6308 "(3) 'Consumer' means a natural person who has been or is a recipient of disability
 6309 services as defined in Code Section ~~37-2-2~~ 37-1-1 and shall include natural persons who
 6310 are seeking disability services."

6311 SECTION 3-11.

6312 Code Section 37-3-1 of the Official Code of Georgia Annotated, relating to definitions
 6313 relative to the examination and treatment for mental illness, is amended by revising
 6314 paragraphs (11), (12), and (14.1) as follows:

6315 "~~(11) 'Mentally ill' means having a disorder of thought or mood which significantly~~
 6316 ~~impairs judgment, behavior, capacity to recognize reality, or ability to cope with the~~
 6317 ~~ordinary demands of life. Reserved.~~"

6318 "(12) 'Mentally ill person requiring involuntary treatment' means a mentally ill person
 6319 who is an inpatient or an outpatient."

6320 "~~(14.2) 'Regional state hospital administrator' means the chief administrative officer of~~
 6321 ~~a state owned or state operated hospital and the state owned or operated community~~
 6322 ~~programs in a region. The regional state hospital administrator, under the supervision of~~
 6323 ~~the regional coordinator, has overall management responsibility for the regional state~~

6324 hospital and manages services provided by employees of the regional state hospital and
 6325 employees of state owned or operated community programs within a mental health,
 6326 developmental disabilities, and addictive diseases region established in accordance with
 6327 Code Section 37-2-3."

6328 **SECTION 3-12.**

6329 Code Section 37-4-2 of the Official Code of Georgia Annotated, relating to definitions
 6330 relative to the habilitation of the mentally retarded, is amended as follows:

6331 "37-4-2.

6332 As used in this chapter, the term:

6333 (1) 'Client' means any ~~mentally retarded~~ person with a developmental disability who
 6334 seeks habilitation under this chapter or any person for whom such habilitation is sought.

6335 (2) 'Clinical record' means a written record pertaining to an individual client and includes
 6336 habilitation record, progress notes, charts, admission and discharge data, and all other
 6337 information which is recorded by a facility and which pertains to the client's habilitation.
 6338 Such other information as may be required by rules and regulations of the board shall also
 6339 be included.

6340 (3) 'Community services' means all services deemed reasonably necessary by the
 6341 Department of ~~Human Resources~~ Behavioral Health to provide for the education,
 6342 training, habilitation, and care of ~~mentally retarded~~ developmentally disabled individuals.
 6343 Such services shall include, but not be limited to, diagnostic and evaluation services,
 6344 day-care and training services, work activity services, community residential services
 6345 such as group family care homes, transportation services, social services, medical
 6346 services, and specified home services.

6347 (4) 'Comprehensive evaluation team' or 'comprehensive habilitation team' means and
 6348 shall consist of a group of persons with special training and experience in the assessment
 6349 of needs and provision of services for ~~mentally retarded~~ developmentally disabled
 6350 persons, which group shall include, at a minimum, persons qualified to provide social,
 6351 psychological, medical, and other services. The department shall specify the
 6352 qualifications of the individuals who ~~compose~~ comprise a comprehensive evaluation team
 6353 or a comprehensive habilitation team and shall ensure that such teams are located
 6354 throughout the state so as to provide diagnostic, evaluation, and habilitation services for
 6355 all citizens of Georgia.

6356 (5) 'Court' means:

6357 (A) In the case of an individual who is 17 years of age or older, the probate court of the
 6358 county of residence of the client or the county in which such client is found.
 6359 Notwithstanding Code Section 15-9-13, in any case in which the judge of said probate

6360 court is unable to hear a case brought under this chapter within the time required for
 6361 such hearing, said judge shall appoint a person to serve and exercise all the jurisdiction
 6362 of the probate court in such case. Any person so appointed shall be a member of the
 6363 State Bar of Georgia and shall be otherwise qualified for his or her duties by training
 6364 and experience. Such appointment may be made on a case-by-case basis or by making
 6365 a standing appointment of one or more persons. Any person receiving such standing
 6366 appointment shall serve at the pleasure of the judge making the appointment or ~~his~~ the
 6367 judge's successor in office to hear such cases if and when necessary. The compensation
 6368 of a person so appointed shall be as agreed upon by the judge who makes the
 6369 appointment and the person appointed with the approval of the governing authority of
 6370 the county for which such person is appointed and shall be paid from the county funds
 6371 of said county. All fees collected for the services of such appointed person shall be
 6372 paid into the general funds of the county served; or

6373 (B) In the case of an individual who is under the age of 17 years, the juvenile court of
 6374 the county of residence of the client or the county in which such client is found.

6375 (6) 'Developmentally disabled person in need of community services' means a
 6376 developmentally disabled person who, after comprehensive evaluation and a hearing, is
 6377 found to be in need of community services as defined in Code Section 37-5-3.

6378 (7) 'Developmentally disabled person requiring temporary and immediate care' means
 6379 a person who is developmentally disabled, and:

6380 (A) Who presents a substantial risk of imminent harm to himself or herself or others;

6381 (B) Who is in need of immediate care, evaluation, stabilization, or treatment for certain
 6382 developmental, medical, or behavioral needs; and

6383 (C) For whom there currently exists no available, appropriate community residential
 6384 setting for meeting the needs of the person.

6385 ~~(6)~~(8) 'Facility' means any state owned or state operated institution utilized 24 hours a
 6386 day for the habilitation and residence of persons who are ~~mentally retarded~~
 6387 developmentally disabled, any facility operated or utilized for such purpose by the United
 6388 States Department of Veterans Affairs or any other federal agency, and any other facility
 6389 within the State of Georgia approved for such purpose by the department.

6390 ~~(7)~~(9) 'Full and fair hearing' or 'hearing' means a proceeding before a hearing examiner,
 6391 under Code Section 37-4-42, or before a court, as defined in paragraph (5) of this Code
 6392 section. The hearing may be held in a regular courtroom or in an informal setting, in the
 6393 discretion of the hearing examiner or the court, but the hearing shall be recorded
 6394 electronically or by a qualified court reporter. The client shall be provided with effective
 6395 assistance of counsel. If the client cannot afford counsel, the court shall appoint counsel
 6396 for him or her or the hearing examiner shall have the court appoint such counsel. The

6397 client shall have the right to confront and cross-examine witnesses and to offer evidence.
 6398 The client shall have the right to subpoena witnesses and to require testimony before the
 6399 hearing examiner or in court in person or by deposition from any physician upon whose
 6400 evaluation the decision of the hearing examiner or the court may rest. The client shall
 6401 have the right to obtain a continuance for any reasonable time for good cause shown. The
 6402 hearing examiner and the court shall apply the rules of evidence applicable in civil cases.
 6403 The burden of proof shall be upon the party seeking treatment of the client. The standard
 6404 of proof shall be by clear and convincing evidence. At the request of the client, the
 6405 public may be excluded from the hearing; and the client need not be present if the court
 6406 consents; in either of these events, the record shall reflect the reason for the hearing
 6407 examiner's or the court's action.

6408 ~~(8)~~(10) 'Habilitation' means the process by which program personnel help clients acquire
 6409 and maintain those life skills which will enable them to cope more effectively with the
 6410 demands of their own persons and of their environment and to raise the level of their
 6411 physical, mental, social, and vocational abilities.

6412 ~~(9)~~(11) 'Individualized program plan' means a proposed habilitation program written in
 6413 behavioral terms, developed by the comprehensive evaluation team, and specifically
 6414 tailored to the needs of an individual client. Each plan shall include:

- 6415 (A) A statement of the nature of the client's specific problems and specific needs;
- 6416 (B) A description of intermediate and long-range habilitation goals and a projected
 6417 timetable for their attainment;
- 6418 (C) A description of the proposed habilitation program and its relation to habilitation
 6419 goals;
- 6420 (D) Identification of the facility and types of professional personnel responsible for
 6421 execution of the client's habilitation program;
- 6422 (E) A statement of the least restrictive environment necessary to achieve the purposes
 6423 of habilitation, based upon the needs of the client;
- 6424 (F) An explanation of criteria for acceptance or rejection of alternative environments
 6425 for habilitation; and
- 6426 (G) Proposed criteria for release of the client into less restrictive habilitation
 6427 environments upon obtaining specified habilitation goals.

6428 ~~(10)~~(12) 'Least restrictive alternative,' 'least restrictive environment,' or 'least restrictive
 6429 appropriate habilitation' means that which is the least restrictive available alternative,
 6430 environment, or appropriate habilitation, as applicable, within the limits of state funds
 6431 specifically appropriated therefor.

6432 (11) ~~'Mental retardation'~~ means a state of significantly subaverage general intellectual
6433 functioning existing concurrently with deficits in adaptive behavior and originating in the
6434 developmental period.

6435 (12) ~~'Mentally retarded person'~~ means a person having a significantly subaverage general
6436 intellectual functioning existing concurrently with deficits in adaptive behavior and
6437 originating in the developmental period.

6438 (13) ~~'Mentally retarded person in need of community services'~~ means a mentally retarded
6439 person who, after comprehensive evaluation and a hearing, is found to be in need of
6440 community services as defined in Code Section 37-5-3.

6441 (13.1) ~~'Mentally retarded person requiring temporary and immediate care'~~ means a
6442 person who is mentally retarded, and:

6443 (A) ~~Who presents a substantial risk of imminent harm to himself or others;~~

6444 (B) ~~Who is in need of immediate care, evaluation, stabilization, or treatment for certain
6445 developmental, medical, or behavioral needs; and~~

6446 (C) ~~For whom there currently exists no available, appropriate community residential
6447 setting for meeting the needs of the person.~~

6448 (14)(13) 'Person in charge of a client's habilitation' means a superintendent or regional
6449 state hospital administrator of a facility, a case manager, or any other service provider
6450 designated by the department to have overall responsibility for implementation of a
6451 client's individualized program plan. The department shall designate such a person for
6452 each individual ordered to receive services from the department under this chapter.

6453 (14.1) ~~'Regional state hospital administrator'~~ means the chief administrative officer of a
6454 state owned or state operated hospital and the state owned or operated community
6455 programs in a region. The regional state hospital administrator, under the supervision of
6456 the regional coordinator, has overall management responsibility for the regional state
6457 hospital and manages services provided by employees of the regional state hospital and
6458 employees of state owned or operated community programs within a mental health,
6459 developmental disabilities, and addictive diseases region established in accordance with
6460 Code Section 37-2-3.

6461 (15)(14) 'Representatives' means the persons appointed as provided in Code Section
6462 37-4-107 to receive any notice under this chapter.

6463 (16)(15) 'Superintendent' means the chief administrative officer who has overall
6464 management responsibility at any facility, other than a regional state hospital or state
6465 owned or operated community program, receiving mentally retarded developmentally
6466 disabled persons under this chapter or an individual appointed as the designee of such
6467 superintendent."

SECTION 3-13.

Code Section 37-4-40 of the Official Code of Georgia Annotated, relating to filing petitions with the court for according of program services to a mentally retarded person, is amended by revising subsections (a) and (d) as follows:

"(a) Any person may file a petition for a court ordered program of services from the department for a ~~mentally retarded~~ developmentally disabled citizen of this state. Such petition shall be executed under oath in the court of the county in which the allegedly ~~mentally retarded~~ developmentally disabled person is a resident or where such person is found. The petition shall assert that the petitioner believes that the client is ~~mentally retarded~~ developmentally disabled and (1) that the petitioner is the parent, guardian, or person standing in loco parentis of the client for whom habilitative services are being sought and that the petitioner is unable to obtain adequate and appropriate programs and services as defined in ~~paragraph (1) of~~ Code Section 37-5-3 and Code Section 20-2-131 to meet the needs of the client or (2) that the petitioner believes that the parent, guardian, or person acting in loco parentis has failed or is unable to secure adequate and appropriate programs and services as defined in ~~paragraph (1) of~~ Code Section 37-5-3 and Code Section 20-2-131 to meet the needs of the client. The petition shall set forth the alleged facts upon which the above assertions are based, the names and addresses, if known, of any witnesses who can allege relevant facts, and, if known, the names and addresses of the nearest relatives and the guardian, if any, of the client."

"(d) If a majority of the evaluation team does not find the allegedly ~~mentally retarded~~ developmentally disabled person to be ~~mentally retarded~~ developmentally disabled and in need of being ordered to receive such services from the department or if a majority of the comprehensive evaluation team finds the client to be a ~~mentally retarded~~ developmentally disabled person in need of court ordered services from the department, the court shall set a hearing on the petition and shall serve notice of such hearing on the petitioner, on the prospective client, and on his representatives or guardian as provided in Code Section 37-4-107; and such notice shall be served within 72 hours after the filing of the report by the evaluation team. Such notice shall be accompanied by:

- (1) A copy of the petition;
- (2) A notice that the client has a right to counsel and that the client or his representatives may apply immediately to the court to have counsel appointed if the client cannot afford counsel and that the court will appoint counsel for the client unless the client either indicates in writing that he will have retained counsel by the time set for hearing or waives his right to counsel;
- (3) A copy of the individualized program plan developed by the evaluation team under subsection (c) of this Code section; and

(4) A notice that the client has a right to be examined by a comprehensive evaluation team of his own choice at his own expense and to have that team submit a suggested individualized program plan for the client which conforms with the requirements of paragraph (9) (11) of Code Section 37-4-2.

The hearing shall be held no sooner than ten days and no later than 15 days, Saturdays, Sundays, and holidays excepted, after the date the evaluation team report is filed. The court shall grant a continuance upon application by the client or his representatives, if necessary, to permit preparation for the hearing."

SECTION 3-14.

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

"37-4-109.

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

SECTION 3-15.

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

"37-5-3.

As used in this chapter, the term:

(1) ~~'Community community services'~~ 'community community services' means ~~all community-based services~~ a coordinated, consumer and family centered, consumer and family directed, and comprehensive system of community services, individualized supports, and other forms of assistance that enable individuals with developmental disabilities to exercise self-determination, be independent, be productive, and be integrated and included in all facets of community life. Such services shall include those deemed reasonably necessary by the department to provide for education, training, rehabilitation, and care of ~~mentally retarded~~ individuals with developmental disabilities and shall include but not be limited to: diagnostic and evaluation services; day-care and training services; work-activity services; support

6540 coordination, day support, and personal support services; supportive employment
 6541 services; community residential services such as group family-care homes, community
 6542 living arrangements, and host homes; transportation services incidental to educational,
 6543 training, and rehabilitation services; technology and durable equipment support and
 6544 services; social services; medical services; and specified home services.

6545 ~~(2) 'Mentally retarded individual' means a person whose ability to care for himself is~~
 6546 ~~substantially impaired by mental retardation or by a neurological dysfunction associated~~
 6547 ~~with mental retardation.~~

6548 ~~(3) 'Mental retardation' means a state of significantly subaverage general intellectual~~
 6549 ~~functioning existing concurrently with deficits in adaptive behavior and originating in the~~
 6550 ~~developmental period."~~

6551 **SECTION 3-16.**

6552 Code Section 37-5-10 of the Official Code of Georgia Annotated, relating to timetable for
 6553 implementation of this chapter, is amended as follows:

6554 "37-5-10.

6555 The department shall employ sufficient professional and nonprofessional persons to assure
 6556 full implementation of this chapter by June 30, 1978. All community services specified in
 6557 ~~paragraph (1)~~ of Code Section 37-5-3 shall be made available for all mentally retarded
 6558 individuals by June 30, 1978."

6559 **SECTION 3-17.**

6560 Code Section 37-6-1 of the Official Code of Georgia Annotated, relating to definitions
 6561 relative to day-care centers for the mentally retarded, is amended as follows:

6562 "37-6-1.

6563 As used in this chapter, the term:

6564 ~~(1) 'Day-care day-care center'~~ means any facility that is operated and maintained for and
 6565 is qualified to furnish care and training to ~~mentally retarded~~ individuals with
 6566 developmental disabilities on less than a 24 hour basis.

6567 ~~(2) 'Mentally retarded individual' means any individual who is suffering from mental~~
 6568 ~~retardation.~~

6569 ~~(3) 'Mental retardation' means a state of subaverage general intellectual functioning~~
 6570 ~~which originates during the developmental period and is associated with impairment in~~
 6571 ~~adaptive behavior."~~

SECTION 3-18.

Code Section 37-9-2 of the Official Code of Georgia Annotated, relating to definitions relative to payment of expenses for support, treatment, and care of patients in institutions generally, is amended by revising paragraph (6) as follows:

"(6) 'State hospital' means any state hospital which now or hereafter comes under the control of ~~the Division of Mental Health, Developmental Disabilities, and Addictive Diseases~~ of the department and any facility operated in conjunction therewith."

SECTION 3-19.

Code Section 37-10-2 of the Official Code of Georgia Annotated, relating to the Interstate Compact on Mental Health, is amended by revising Article XV as follows:

"ARTICLE XV.

(a) Pursuant to said compact, the Commissioner of ~~Human Resources~~ Behavioral Health, or his delegate, is hereby designated to be the compact administrator. The compact administrator, acting jointly with like officers of other party States, shall have power to promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator is hereby authorized, empowered and directed to cooperate with all departments, agencies and officers of and in the government of this State and its subdivisions in facilitating the proper administration of the compact or any supplementary agreement or agreements entered into by this State thereunder.

(b) The compact administrator is hereby authorized and empowered to enter into supplementary agreements with appropriate officials of other States pursuant to Articles VII and XI of the compact. In the event that such supplementary agreements shall require or contemplate the use of any institution or facility of this State or require or contemplate the provision of any service of this State, no such agreement shall have force or effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service.

(c) The compact administrator, using funds appropriated to the Department of ~~Human Resources~~ Behavioral Health and the Department of Health, may make or arrange for any payments necessary to discharge any financial obligations imposed upon this State by the compact or by any supplementary agreement entered into thereunder.

(d) Duly authenticated copies of this Act shall be transmitted by the Secretary of State of the State of Georgia to the Governor of each State, to the Attorney General and the

6605 Administrator of General Services of the United States, and to the Council of State
6606 Governments, and to the Veterans' Administration.

6607 (e) The compact administrator is hereby directed to consult with the immediate family of
6608 any proposed transferee and, in the case of a proposed transfer from an institution in this
6609 State to an institution in another party State, to take no final action without notice to the
6610 admitting court or in case of admission other than by a court, then notice to the admitting
6611 medical facility is required.

6612 (f) In the administration of this compact, the compact administrator shall in no way
6613 abridge the rights or privileges of any patient to appeal to the courts for a hearing as
6614 provided under the laws of Georgia."

6615 SECTION 3-20.

6616 Code Section 40-16-5 of the Official Code of Georgia Annotated, relating to authority of the
6617 commissioner of driver services, is amended by revising paragraph (5) of subsection (d) as
6618 follows:

6619 "(5) All rules and regulations previously adopted which relate to functions transferred
6620 under this chapter from the Department of Human Resources (now known as the
6621 Department of Behavioral Health for these purposes) to the Department of Driver
6622 Services."

6623 SECTION 3-21.

6624 Code Section 42-5-52 of the Official Code of Georgia Annotated, relating to classification
6625 and separation of inmates generally, is amended by revising subsections (d), (e), and (f) as
6626 follows:

6627 "(d) The department is authorized to transfer a mentally diseased inmate from a state or
6628 county correctional institution or other facility operating under its authority to a criminal
6629 ward or facility of the Department of ~~Human Resources~~ Behavioral Health. The inmate
6630 shall remain in the custody of the Department of ~~Human Resources~~ Behavioral Health until
6631 proper officials of the facility at which ~~he~~ the inmate is detained declare that his or her
6632 sanity has been restored, at which time the inmate shall be returned to the custody of the
6633 department. At any time after completion of his or her sentence, an inmate detained by the
6634 Department of ~~Human Resources~~ Behavioral Health on the grounds that he or she is
6635 mentally diseased may petition for release in accordance with the procedure provided in
6636 Chapter 3 of Title 37. Prior to completion of his or her sentence, this procedure shall not
6637 be available to ~~him~~ the inmate.

6638 (e) Upon being presented with a proper certification from the county physician of a county
6639 where a person has been sentenced to confinement that the person sentenced is addicted to

6640 drugs or alcohol to the extent that ~~his~~ the person's health will be impaired or ~~his~~ life
 6641 endangered if immediate treatment is not rendered, the department shall transfer the inmate
 6642 to the custody of the Department of ~~Human Resources~~ Behavioral Health. The inmate shall
 6643 remain in such custody until officials of the Department of ~~Human Resources~~ Behavioral
 6644 Health determine ~~he~~ the inmate is able to serve his or her sentence elsewhere.

6645 (f) The department may transfer any inmate afflicted with active tuberculosis from any
 6646 state or county correctional institution, or any other facility operating under the authority
 6647 of the department, to a tubercular ward or facility specially provided and maintained for
 6648 criminals by the department at a tuberculosis facility or facilities operating under the
 6649 Department of ~~Human Resources~~ Health."

6650 SECTION 3-22.

6651 Code Section 42-5-52.1 of the Official Code of Georgia Annotated, relating to submission
 6652 to HIV test of inmates, is amended by revising subsection (c) as follows:

6653 "(c) No later than December 31, 1991, the department shall require to submit to an HIV
 6654 test each person who has been committed to the custody of the commissioner to serve time
 6655 in a penal institution of this state and who remains in such custody, or who would be in
 6656 such custody but for having been transferred to the custody of the Department of Human
 6657 Resources (now known as the Department of Behavioral Health) under Code Section
 6658 42-5-52, if that person has not submitted to an HIV test following that person's most recent
 6659 commitment to the custody of the commissioner and unless that person is in such custody
 6660 because of having committed an AIDS transmitting crime and has already submitted to an
 6661 HIV test pursuant to Code Section 17-10-15."

6662 SECTION 3-23.

6663 Code Section 42-8-63.1 of the Official Code of Georgia Annotated, relating to discharges
 6664 disqualifying individuals from employment, is amended by revising paragraph (4) of
 6665 subsection (a) as follows:

6666 "(4) The request for information is an inquiry about a person who has applied for
 6667 employment with a facility as defined in Code Section 37-3-1 or 37-4-2 that provides
 6668 services to persons who are mentally ill as defined in Code Section ~~37-3-1~~ 37-1-1 or
 6669 ~~mentally retarded~~ developmentally disabled as defined in Code Section ~~37-4-2~~ 37-1-1,
 6670 and the person who is the subject of the inquiry to the center was prosecuted for the
 6671 offense of sexual battery, incest, pimping, or pandering."

SECTION 3-24.

Code Section 49-5-220 of the Official Code of Georgia Annotated, relating to legislative findings and intent with respect to children and adolescents with severe emotional problems, is amended as follows:

"49-5-220.

(a) The General Assembly declares its intention and desire to:

- (1) Ensure a comprehensive mental health program consisting of early identification, prevention, and early intervention for every child in Georgia;
- (2) Preserve the sanctity of the family unit;
- (3) Prevent the unnecessary removal of children and adolescents with a severe emotional disturbance from their homes;
- (4) Prevent the unnecessary placement of these children out of state;
- (5) Bring those children home who through use of public funds are inappropriately placed out of state; and
- (6) Develop a coordinated system of care so that children and adolescents with a severe emotional disturbance and their families will receive appropriate educational, nonresidential and residential mental health services, and support services, as prescribed in an individualized plan.

(b) In recognition of the fact that services to these children are provided by several different agencies, each having a different philosophy, a different mandate, and a different source of funding, the General Assembly intends that the ~~Division of Mental Health, Developmental Disabilities, and Addictive Diseases of the Department of Human Resources~~ Department of Behavioral Health shall have the primary responsibility for planning, developing, and implementing the coordinated system of care for severely emotionally disturbed children. Further, it recognizes that to enable severely emotionally disturbed children to develop appropriate behaviors and demonstrate academic and vocational skills, it is necessary that the Department of Education provide appropriate education in accordance with P.L. 94-142 and that the ~~Division of Mental Health, Developmental Disabilities, and Addictive Diseases of the Department of Human Resources~~ Department of Behavioral Health provide mental health treatment.

(c) Further, in recognition that only a portion of the children needing services are receiving them and in recognition that not all the services that comprise a coordinated system of care are currently in existence or do not exist in adequate numbers, the General Assembly intends that the ~~Department of Human Resources~~ Department of Behavioral Health and the Department of Education jointly develop and implement a State Plan for the Coordinated System of Care for severely or emotionally disturbed children or adolescents as defined in paragraph (10) of Code Section 49-5-221.

6709 (d) The commissioner of ~~the Department of Human Resources~~ behavioral health and the
 6710 State School Superintendent shall be responsible for the development and implementation
 6711 of the state plan.

6712 (e) The commissioner of ~~the Department of Human Resources~~ behavioral health shall be
 6713 responsible for preparing this jointly developed state plan for publication and
 6714 dissemination. The commissioner of ~~the Department of Human Resources~~ behavioral
 6715 health shall also be responsible for preparing for publication and dissemination the annual
 6716 report.

6717 (f) The receipt of services under this article is not intended to be conditioned upon
 6718 placement of a child in the legal custody, protective supervision, or protection of the
 6719 ~~Department of Human Resources~~ Department of Human Services."

6720 SECTION 3-25.

6721 Code Section 49-5-225 of the Official Code of Georgia Annotated, relating to local
 6722 interagency committees with respect to children and adolescents with severe emotional
 6723 problems, is amended by revising subsection (a) as follows:

6724 "(a) At least one local interagency committee shall be established for each region of the
 6725 ~~Division of Mental Health, Developmental Disabilities, and Addictive Diseases of the~~
 6726 ~~Department of Human Resources~~ Department of Behavioral Health whose permanent
 6727 membership shall include a local representative from each of the following:

- 6728 (1) The community mental health agency responsible for coordinating children's
 6729 services;
- 6730 (2) The Division of Family and Children Services of the Department of Human
 6731 ~~Resources~~ Services;
- 6732 (3) The Department of Juvenile Justice;
- 6733 (4) The Division of Public Health of the Department of ~~Human Resources~~ Health;
- 6734 (5) A member of the special education staff of the local education agency;
- 6735 (6) The Division of Rehabilitation Services of the Department of Labor."

6736 PART IV

6737 Effective Date and Repealer.

6738 SECTION 4-1.

6739 This Act shall be effective on July 1, 2009.

6740 SECTION 4-2.

6741 All laws and parts of laws in conflict with this Act are repealed.