

House Bill 850

By: Representatives Martin of the 47th, Harbin of the 118th, Jones of the 46th, Roberts of the 154th, Butler of the 18th, and others

A BILL TO BE ENTITLED
AN ACT

To amend Article 1 of Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to regulation of hospitals and related institutions, so as to provide definitions; to provide for regulation and licensing of assisted living communities; to provide for procedures and criteria for the admission and retention of residents of such communities; to provide for the special care of certain persons with cognitive impairments; to provide for certain notices; to provide for agreements regarding the care of residents; to provide for an advisory committee and the composition thereof; to provide for inspections and investigations; to provide for procedures for waivers, variances, and exemptions; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 1 of Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to regulation of hospitals and related institutions, is amended by revising paragraph (4) of Code Section 31-7-1, relating to definitions, as follows:

"(4) 'Institution' means:

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

(B) Any health facility wherein abortion procedures under subsections (b) and (c) of Code Section 16-12-141 are performed or are to be performed;

(C) Any building or facility, not under the operation or control of a hospital, which is primarily devoted to the provision of surgical treatment to patients not requiring

hospitalization and which is classified by the department as an ambulatory surgical treatment center;

(D) Any fixed or mobile specimen collection center or health testing facility where specimens are taken from the human body for delivery to and examination in a licensed clinical laboratory or where certain measurements such as height and weight determination, limited audio and visual tests, and electrocardiograms are made, excluding public health services operated by the state, its counties, or municipalities;

(E) Any building or facility where human births occur on a regular and ongoing basis and which is classified by the department as a birthing center;

(F) Any building or facility which is devoted to the provision of treatment and rehabilitative care for periods continuing for 24 hours or longer for persons who have traumatic brain injury, as defined in Code Section 37-3-1; or

(G) Any freestanding imaging center where magnetic resonance imaging, computed tomography (CT) scanning, positron emission tomography (PET) scanning, positron emission tomography/computed tomography, and other advanced imaging services as defined by the department by rule, but not including X-rays, fluoroscopy, or ultrasound services, are conducted in a location or setting not affiliated or attached to a hospital or in the offices of an individual private physician or single group practice of physicians and conducted exclusively for patients of that physician or group practice.

The term 'institution' shall exclude all physicians' and dentists' private offices and treatment rooms in which such physicians or dentists primarily see, consult with, and treat patients."

SECTION 2.

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

"31-7-12.2.

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

(1) 'Administrator' means an individual who is charged with the general administration of an assisted living community, whether or not such individual has an ownership interest in such assisted living community or the duties and functions of such individual are shared with other individuals.

(2) 'Age in place' or 'aging in place' means receiving care and services at a licensed assisted living community to accommodate changing needs and preferences.

(3) 'Assisted living care services' means the care or services provided to an assisted living resident pursuant to an assisted living license.

(4) 'Assisted living community' 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 care or assisted living care services for two or more adults who are not related to the owner or administrator by blood or marriage. The term shall not include host homes, as defined in paragraph (16) of subsection (b) of Code Section 37-1-20.

(5) 'Assisted living license' means a license issued by the department that authorizes an assisted living community to provide aging in place by retaining residents who desire to continue to age in place.

(6) 'Assisted living resident' means a resident of an assisted living community who receives assisted living care services.

(7) 'Informed consent agreement' means a formal, mutually agreed upon, written understanding that:

(A) Results after thorough discussion among assisted living community staff, an assisted living resident, and any individuals that the assisted living resident wants to be involved; and

(B) Identifies how to balance the assisted living community's responsibilities to the individuals it serves with an assisted living resident's choices and capabilities with the possibility that those choices may place such assisted living resident or other assisted living residents at risk of harm.

(8) 'Personal services' include, but are not limited to, individual assistance with or supervision of self-administered medication and essential activities of daily living, such as eating, bathing, grooming, dressing, and toileting.

(9) 'Special care designation' means a licensed assisted living community or a distinct part of the community that is specifically designated by the department as capable of providing cognitive support services to assisted living residents with severe cognitive impairments, including, but not limited to, dementia or Alzheimer's disease, in the least restrictive manner to ensure the safety of the assisted living resident and others in the assisted living community while maintaining the assisted living resident's ability to age in place.

(10) 'Supplemental health care services' means the provision by any assisted living community of any type of health care services, either directly or through contractors, subcontractors, agents, or designated providers, except for any service that is required by law to be provided by a health care facility as defined by law.

(b)(1) In order for an assisted living resident to age in place, the assisted living community shall be able to provide care and services consistent with the scope of services set forth in the informed consent agreement. An assisted living resident may remain in the assisted living community as long as the assisted living community is able and authorized to accommodate such assisted living resident's current and changing needs.

No assisted living resident shall be permitted to continue to age in place under the terms of an assisted living license unless the assisted living resident or the assisted living resident's family, the administrator, and the assisted living resident's physician agree that the additional needs of the assisted living resident can be safely and appropriately met at the assisted living community. An assisted living resident eligible for assisted living care services or his or her personal representative shall submit to the assisted living community a written report from a physician which report shall state that:

(A) The physician has physically examined the assisted living resident within the last month; and

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

(2) If an assisted living resident reaches the point where he or she is in need of 24 hour skilled nursing care or medical care, then such assisted living resident shall be discharged from the assisted living community, and the administrator shall initiate proceedings for the termination of the residency agreement of such assisted living resident in accordance to law; provided, however, that an assisted living resident may remain at the assisted living community if each of the following conditions are met:

(A) The assisted living resident in need of 24 hour skilled nursing care or medical care hires appropriate nursing, medical, or hospice staff to care for his or her increased needs;

(B) The assisted living resident's physician and assisted living provider both determine and document that, with the provisions of such additional nursing, medical, or hospice care, the assisted living resident can be safely cared for in the assisted living community and would not require placement in a hospital, nursing home, or other licensed setting;

(C) The administrator agrees to retain the assisted living resident and to provide the additional care directly or to coordinate the care provided by the assisted living community and the additional nursing, medical, or hospice staff; and

(D) The assisted living resident is otherwise eligible to reside at the assisted living community.

(3) The assisted living community shall notify an assisted living resident that, while the assisted living community will make reasonable efforts to facilitate the assisted living resident's ability to age in place pursuant to an individualized service plan, there may be a point reached where the needs of the assisted living resident cannot be safely or appropriately met at the assisted living community, requiring the transfer of the assisted living resident to a more appropriate facility.

(4) The department shall create standards for transfer and discharge that require the assisted living community to make a reasonable accommodation for aging in place that may include services from outside providers.

(c)(1) The department shall establish a special care designation for assisted living communities and units that require specialized staff training, service planning, activity programming, and security measures for assisted living residents receiving cognitive support services.

(2) For assisted living residents with Alzheimer's disease or dementia or where the assisted living community holds itself out to the public as providing assisted living care services or housing for assisted living residents with cognitive impairments, the assisted living community shall provide cognitive support services, including dementia specific activity programming. In addition, each assisted living community that holds itself out to the public as providing consumers cognitive support shall disclose to consumers and provide:

(A) The assisted living community's written statement of its philosophy and mission which reflects the needs of assisted living residents with cognitive impairments;

(B) A description of the assisted living community's physical environment and design features to support the functioning of assisted living residents with cognitive impairments;

(C) A description of the frequency and types of individual and group activities designed specifically to meet the needs of assisted living residents with cognitive impairments;

(D) A description of security measures provided by the assisted living community;

(E) A description of training provided to staff regarding provision of care to assisted living residents with cognitive impairments;

(F) A description of the availability of family support programs and family involvement; and

(G) The process used for assessment and establishment of a plan of services for the assisted living resident, including methods by which the plan of services will remain responsive to changes in the assisted living resident's condition.

(d) The department shall create standards for informed consent agreements that promote aging in place which includes written acknowledgment of the risks assisted living residents assume while directing their own care and which releases the assisted living community from liability for adverse outcomes resulting from actions consistent with the terms of the informed consent agreement. Such informed consent agreements shall only be entered into upon the mutual agreement of the assisted living resident and the assisted living community.

(e) All assisted living communities shall be licensed as provided for in Code Section 31-7-3, except that in lieu of licensure, the department may require persons who operate assisted living communities with two or three beds for nonfamily adults to comply with registration requirements delineated by the department. Such registration requirements within this category shall authorize the department pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' to promulgate reasonable standards to protect the health, safety, and welfare of the occupants of such assisted living communities. To obtain an assisted living license, the applicant shall submit a plan to the department setting forth how the additional needs of assisted living residents will be safely and appropriately met at such assisted living community. Such plan shall include, but shall not be limited to, a written description of services, average staffing levels, staff education and training, work experience, and any environmental modifications that have been made or will be made to protect the health, safety, and welfare of such assisted living residents in the assisted living community.

(f) Facilities licensed to provide assisted living care services shall be exempt from the criteria for continued residency as set forth in rules adopted under Code Section 31-7-12. Assisted living communities so licensed shall adopt their own requirements within guidelines for continued residency set forth by rule. However, such facilities shall not serve assisted living residents who require 24 hour nursing supervision except as otherwise provided by law. Facilities licensed to provide assisted living care services shall provide each assisted living resident with a written copy of the assisted living community policies governing admission and retention.

(g)(1) There is created the advisory committee on assisted living communities which shall consist of ten appointed members. The commissioner of Human Resources shall appoint two staff members from the department to serve as nonvoting advisory members. In appointing staff members under this subsection, the commissioner shall appoint one member as a representative of long-term care policy and one member as a representative of long-term care regulation. The commissioner of Human Resources shall appoint four members to represent the interests of consumers; one member shall be a family member of a resident in a community that will seek to be licensed as an assisted living community. The Georgia-ALFA shall appoint two members to serve on the advisory committee, and the Georgia Association of Homes and Services for the Aging shall appoint two members to serve on the advisory committee. One member representing the interests of providers shall represent a nonprofit facility.

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

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

208 (h) Upon the designation by the department and with the consent of county boards of
209 health, such boards may act as agents to the department in performing inspections and other
210 authorized functions regarding assisted living communities licensed under this chapter.
211 With approval of the department, county boards of health may establish inspection fees to
212 defray part of the costs of inspections performed for the department. The department shall
213 have enforcement and licensure staff dedicated solely to assisted living communities. All
214 inspections of assisted living communities and personal care homes shall be conducted by
215 a team of surveyors comprised of both personal care home and assisted living community
216 surveyors.

217 (i) The state ombudsman or community ombudsman, on that ombudsman's initiative or in
218 response to complaints made by or on behalf of assisted living residents of a registered or
219 licensed assisted living community, may conduct investigations in matters within the
220 ombudsman's powers and duties.

221 (j) The department shall promulgate procedures to govern the waiver, variance, and
222 exemption process related to assisted living communities pursuant to Chapter 2 of this title.
223 Such procedures shall include published, measurable criteria for the decision process, shall
224 take into account the need for protection of public and individual health care and safety,
225 and shall afford an opportunity for public input into the process."

226 **SECTION 2.**

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