

House Bill 1161

By: Representatives Mayo of the 91st and Mosby of the 90th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 7 of Title 31 of the Official Code of Georgia Annotated,
2 relating to regulation of hospitals and related institutions, so as to provide for minimum
3 training requirements for personal care home employees; to provide for personal care home
4 employee continuing education; to provide for issuance and revocation of owners' licenses
5 under certain circumstances; to provide for refusal to employ a director, administrator, or
6 on-site manager and employees under certain circumstances; to provide for related matters;
7 to repeal conflicting laws; and for other purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Article 1 of Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to
11 regulation of hospitals and related institutions, is amended by revising Code Section 31-7-12,
12 relating to personal care home and personal services defined, licensure, registration,
13 inspection, and investigations, as follows:

14 "31-7-12.

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

16 (1) 'Personal care home' means any dwelling, whether operated for profit or not, which
17 undertakes through its ownership or management to provide or arrange for the provision
18 of housing, food service, and one or more personal services for two or more adults who
19 are not related to the owner or administrator by blood or marriage. This term shall not
20 include host homes, as defined in paragraph (18) of subsection (b) of Code Section
21 37-1-20.

22 (2) 'Personal services' includes, but is not limited to, individual assistance with or
23 supervision of self-administered medication and essential activities of daily living such
24 as eating, bathing, grooming, dressing, and toileting. Personal services shall not include
25 medical, nursing, or health services; provided, however, that the department shall be
26 authorized to grant a waiver of this provision in the same manner as provided for in Code

27 Section 31-7-12.3 for the waiver of rules and regulations and in the same manner and
28 only to the same extent as granted on or before June 30, 2011.

29 (b) All personal care homes shall be licensed as provided for in Code Section 31-7-3,
30 except that, in lieu of licensure, the department may require persons who operate personal
31 care homes with two or three beds for nonfamily adults to comply with registration
32 requirements delineated by the department. Such registration requirements within this
33 category shall authorize the department to promulgate pursuant to Chapter 13 of Title 50,
34 the 'Georgia Administrative Procedure Act,' reasonable standards to protect the health,
35 safety, and welfare of the occupants of such personal care homes.

36 (c) The administrator or on-site manager of a personal care home shall be responsible for
37 ensuring that any person working in the facility as an employee, under contract or
38 otherwise, receives work-related training acceptable to the department within the first 60
39 days of employment. At least one staff person having completed the minimum training
40 requirements shall be present in the home at all times residents are present in the home.
41 Such training shall at a minimum include the following:

42 (1) Current certification in emergency first aid except where the staff person is a
43 currently licensed health care professional;

44 (2) Current certification in cardiopulmonary resuscitation where the training course
45 required return demonstration of competency;

46 (3) Emergency evacuation procedures;

47 (4) Medical and social needs and characteristics of the resident population;

48 (5) Residents' rights; and

49 (6) Receiving a copy of Code Section 31-8-80 et seq., the 'Long-term Care Facility
50 Resident Abuse Reporting Act.'

51 (d) All persons, including the administrator or on-site manager, who offer direct care to
52 the residents must satisfactorily complete a total of at least 16 hours of continuing
53 education each year, in applicable courses approved by the department, including, but not
54 limited to, working with the elderly, working with residents with Alzheimer's disease or
55 other cognitive impairments, working with the mentally retarded, mentally ill, and
56 developmentally disabled, social and recreational activities, legal issues, physical
57 maintenance and fire safety, housekeeping, or other topics as needed or as determined by
58 the department.

59 (e) All persons, including the administrator or on-site manager, who offer direct care to
60 the residents shall be responsible for maintaining awareness of each resident's normal
61 appearance and shall be capable of intervening if a resident's state of health appears to be
62 in jeopardy.

63 (f) A personal care home provider license shall not be issued, and any license issued shall
 64 be revoked, where it has been determined that the owner has a criminal record involving
 65 any of the following covered crimes, as outlined in Code Section 31-2-9:

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

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

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

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

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

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

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

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

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

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

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

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

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

82 (14) Any other offense committed in another jurisdiction that, if committed in this state,
 83 would be deemed to be a crime listed in this subsection without regard to its designation
 84 elsewhere.

85 (g)(1) Prior to serving as a director, administrator, or on-site manager of a licensed
 86 personal care home, a person shall submit a records check application to the department.

87 (2) In lieu of a records check application, the director, administrator, or on-site manager
 88 may submit evidence, satisfactory to the department, that within the immediately
 89 preceding 12 months the above personnel have received a satisfactory records check
 90 determination or a satisfactory preliminary records check determination, whichever is
 91 applicable.

92 (3) A person with an unsatisfactory criminal history background check determination
 93 may not serve as a director of a licensed personal care home if it is determined that such
 94 person has a criminal record involving of the following covered crimes, as outlined in
 95 Code Section 31-7-250:

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

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

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

99 (D) A felony violation of Code Section 16-8-2, relating to theft by taking;

- 100 (E) A felony violation of Code Section 16-8-3, relating to theft by deception;
 101 (F) A felony violation of Code Section 16-8-4, relating to theft by conversion;
 102 (G) A violation of Code Section 16-9-1 or 16-9-2, relating to forgery in the first and
 103 second degree, respectively;
 104 (H) A violation of Code Section 16-5-1, relating to murder and felony murder;
 105 (I) A violation of Code Section 16-4-1, relating to criminal attempt as it concerns
 106 attempted murder;
 107 (J) A violation of Code Section 16-8-40, relating to robbery;
 108 (K) A violation of Code Section 16-8-41, relating to armed robbery;
 109 (L) A violation of Chapter 13 of Title 16, relating to controlled substances;
 110 (M) A violation of Code Section 16-5-23.1, relating to battery;
 111 (N) A violation of Code Section 16-6-5.1, relating to sexual assault against a person
 112 in custody;
 113 (O) A violation of Code Section 30-5-8, relating to abuse, neglect, or exploitation of
 114 a disabled adult or elder person; or
 115 (P) Any other offense committed in another jurisdiction which, if committed in this
 116 state, would be deemed to be such a crime without regard to its designation elsewhere.
 117 (h)(1) Prior to serving as an employee other than a director of a licensed personal care
 118 home, a person must receive a satisfactory criminal history background check
 119 determination from a local law enforcement agency.
 120 (2)(A) A person with an unsatisfactory criminal history background check
 121 determination may not serve as an employee of a licensed personal care home if it is
 122 determined that such person has a criminal record involving any of the covered crimes
 123 outlined in Code Section 31-7-250 and in subsection (g) of this Code section, unless an
 124 administrative law judge has determined that the employee is authorized to work in the
 125 personal care home.
 126 (B) Where an applicant for employment has not been a resident of the state for three
 127 years preceding the application of employment, the personal care home shall obtain a
 128 criminal history background check from the local law enforcement agency of the
 129 applicant's previous state of employment.
 130 (C) The department may require a fingerprint records check for any employee when
 131 the department has reason to believe that the employee has a criminal record.
 132 (D) An employment history for each person working in the home must be verified by
 133 the administrator or on-site manager and kept on file in the home.
 134 (e)(i) Upon the designation by the department and with the consent of county boards of
 135 health, such boards may act as agents to the department in performing inspections and other
 136 authorized functions regarding personal care homes licensed under this chapter. With

137 approval of the department, county boards of health may establish inspection fees to defray
138 part of the costs of inspections performed for the department.

139 ~~(d)~~(j) The state ombudsman or community ombudsman, on that ombudsman's initiative
140 or in response to complaints made by or on behalf of residents of a registered or licensed
141 personal care home, may conduct investigations in matters within the ombudsman's powers
142 and duties.

143 ~~(e)~~(k) The department shall promulgate procedures to govern the waiver, variance, and
144 exemption process related to personal care homes pursuant to Chapter 2 of this title. Such
145 procedures shall include published, measurable criteria for the decision process, shall take
146 into account the need for protection of public and individual health, care, and safety, and
147 shall afford an opportunity for public input into the process.

148 (l) Nothing in this Code section is intended to limit or restrict the application of any
149 existing department rule or regulation."

150

SECTION 2.

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