

The House Committee on Human Relations and Aging offers the following substitute to HB 398:

A BILL TO BE ENTITLED  
AN ACT

1 To amend the Official Code of Georgia Annotated so as to authorize licensed personal care  
2 homes and community living arrangements to use certain terms; to change certain references  
3 throughout the Official Code of Georgia Annotated; to provide for related matters; to repeal  
4 conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 The Official Code of Georgia Annotated is amended in Code Section 10-1-393, relating to  
8 unfair or deceptive practices in consumer transactions unlawful, by revising paragraph (26)  
9 of subsection (b) as follows:

10 "(26) With respect to any individual or facility providing ~~personal care services or~~  
11 ~~assisted living~~ licensed residential living level 1 care or licensed residential living level  
12 2 care:

13 (A) Any person or entity not duly licensed or registered as a ~~personal care home or~~  
14 ~~assisted living community~~ licensed residential living level 1 facility or licensed  
15 residential living level 2 facility formally or informally offering, advertising to, or  
16 soliciting the public for residents or referrals; or

17 (B) Any ~~personal care home~~ licensed residential living level 1 facility, as defined in  
18 subsection (a) of Code Section 31-7-12, or any ~~assisted living community~~ licensed  
19 residential living level 2 facility, as defined in Code Section 31-7-12.2, offering,  
20 advertising, or soliciting the public to provide services:

21 (i) Which are outside the scope of ~~personal care services~~ licensed residential living  
22 level 1 care or assisted living licensed residential living level 2 care, respectively; and

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

24 Nothing in this subparagraph prohibits advertising by a ~~personal care home~~ licensed  
25 residential living level 1 facility or ~~assisted living community~~ licensed residential living

26 level 2 facility for services authorized by the Department of Community Health under  
 27 a waiver or variance pursuant to subsection (b) of Code Section 31-2-7.

28 For purposes of this paragraph, ~~'personal care'~~ the term 'licensed residential living level  
 29 1 care' means protective care and watchful oversight of a resident who needs a watchful  
 30 environment but who does not have an illness, injury, or disability which requires chronic  
 31 or convalescent care, including medical and nursing services, and ~~'assisted living care'~~ the  
 32 term 'licensed residential living level 2 care' includes services provided for in Code  
 33 Section 31-7-12.2. The provisions of this paragraph shall be enforced following  
 34 consultation with the Department of Community Health which shall retain primary  
 35 responsibility for issues relating to licensure of any individual or facility providing  
 36 ~~personal care services~~ licensed residential living level 1 care;"

### 37 **SECTION 2.**

38 Said Code is further amended in Code Section 16-5-23, relating to simple battery, by revising  
 39 subsection (g) as follows:

40 "(g) A person who is an employee, agent, or volunteer at any facility licensed or required  
 41 to be licensed under Code Section 31-7-3, relating to long-term care facilities, or Code  
 42 Section 31-7-12.2, relating to ~~assisted living communities~~ licensed residential living level  
 43 2 facilities, or Code Section 31-7-12, relating to ~~personal care homes~~ licensed residential  
 44 living level 1 facilities, or who is required to be licensed pursuant to Code Section  
 45 31-7-151 or 31-7-173, relating to home health care and hospices, who commits the offense  
 46 of simple battery against a person who is admitted to or receiving services from such  
 47 facility, person, or entity shall be punished for a misdemeanor of a high and aggravated  
 48 nature."

### 49 **SECTION 3.**

50 Said Code is further amended in Code Section 16-5-23.1, relating to battery, by revising  
 51 subsection (k) as follows:

52 "(k) A person who is an employee, agent, or volunteer at any facility licensed or required  
 53 to be licensed under Code Section 31-7-3, relating to long-term care facilities, or Code  
 54 Section 31-7-12.2, relating to ~~assisted living communities~~ licensed residential living level  
 55 2 facilities, or Code Section 31-7-12, relating to ~~personal care homes~~ licensed residential  
 56 living level 1 facilities, or who is required to be licensed pursuant to Code Section  
 57 31-7-151 or 31-7-173, relating to home health care and hospices, who commits the offense  
 58 of battery against a person who is admitted to or receiving services from such facility,  
 59 person, or entity shall, upon conviction thereof, be punished by imprisonment for not less  
 60 than one nor more than five years, or a fine of not more than \$2,000.00, or both."

61 **SECTION 4.**

62 Said Code is further amended in Code Section 16-13-21, relating to definitions relative to the  
 63 "Georgia Controlled Substances Act," by revising subparagraph (B) of paragraph (10) as  
 64 follows:

65 "(B) An institutional pharmacy that serves only a health care facility, including, but not  
 66 limited to, a nursing home, an intermediate care home, a ~~personal care home~~ licensed  
 67 residential living level 1 facility, or a hospice program, which provides patient care and  
 68 which pharmacy dispenses such substances to be administered and used by a patient on  
 69 the premises of the facility;"

70 **SECTION 5.**

71 Said Code is further amended in Code Section 25-2-13, relating to buildings presenting  
 72 special hazards to persons or property, requirements as to construction, maintenance, and use  
 73 generally, effect of rules, regulations, and fire safety standards issued before April 1, 1968,  
 74 and power of local governing authorities, by revising subparagraph (b)(1)(J) as follows:

75 "(J) ~~Personal care homes~~ Licensed residential living level 1 facilities and ~~assisted living~~  
 76 ~~communities~~ licensed residential living level 2 facilities required to be licensed as such  
 77 by the Department of Community Health and having at least seven beds for nonfamily  
 78 adults, and the Commissioner shall, pursuant to Code Section 25-2-4, by rule adopt  
 79 state minimum fire safety standards for those ~~homes~~ facilities, and any structure  
 80 constructed as or converted to a ~~personal care home~~ licensed residential living level 1  
 81 facility on or after April 15, 1986, shall be deemed to be a proposed building pursuant  
 82 to subsection (d) of Code Section 25-2-14 and that structure may be required to be  
 83 furnished with a sprinkler system meeting the standards established by the  
 84 Commissioner if he or she deems this necessary for proper fire safety."

85 **SECTION 6.**

86 Said Code is further amended in Code Section 26-4-5, relating to definitions relative to the  
 87 "Georgia Pharmacy Practice Act," by revising paragraph (18.1) as follows:

88 "(18.1) 'Institution' means any licensed hospital, nursing home, ~~assisted living~~  
 89 ~~community~~, ~~personal care home~~ licensed residential living level 1 facility, licensed  
 90 residential living level 2 facility, hospice, health clinic, or prison clinic."

91 **SECTION 7.**

92 Said Code is further amended in Code Section 26-4-191, relating to definitions relative to the  
 93 "Utilization of Unused Prescription Drugs Act," by revising paragraph (2) as follows:

94 "(2) 'Health care facility' means an institution which is licensed as a nursing home,  
 95 intermediate care home, ~~assisted living community, personal care home~~ licensed  
 96 residential living level 1 facility, licensed residential living level 2 facility, home health  
 97 agency, or hospice pursuant to Chapter 7 of Title 31."

98 **SECTION 8.**

99 Said Code is further amended in Code Section 26-4-212, relating to definitions relative to the  
 100 "Safe Medications Practice Act," by revising paragraph (3) as follows:

101 "(3) 'Institution' means any licensed hospital, nursing home, ~~assisted living community,~~  
 102 ~~personal care home~~ licensed residential living level 1 facility, licensed residential living  
 103 level 2 facility, or hospice."

104 **SECTION 9.**

105 Said Code is further amended in Code Section 31-2-9, relating to records check requirement  
 106 for certain facilities, definitions, use of information gathered in investigation, penalties for  
 107 unauthorized release or disclosure, and rules and regulations, by revising paragraph (4) of  
 108 subsection (a) as follows:

109 "(4) 'Facility' means a:

- 110 (A) ~~Personal care home~~ Licensed residential living level 1 facility required to be  
 111 licensed or permitted under Code Section 31-7-12;  
 112 (B) ~~Assisted living community~~ Licensed residential living level 2 facility required to  
 113 be licensed under Code Section 31-7-12.2;  
 114 (C) Private home care provider required to be licensed under Article 13 of Chapter 7  
 115 of this title; or  
 116 (D) Community living arrangement subject to licensure under paragraph (8) of  
 117 subsection (d) of Code Section 31-2-4."

118 **SECTION 10.**

119 Said Code is further amended in Code Section 31-6-2, relating to definitions relative to state  
 120 health planning and development, by revising paragraphs (17) and (30) as follows:

121 "(17) 'Health care facility' means hospitals; destination cancer hospitals; other special  
 122 care units, including but not limited to podiatric facilities; skilled nursing facilities;  
 123 intermediate care facilities; ~~personal care homes~~ licensed residential living level 1  
 124 facilities; ambulatory surgical centers or obstetrical facilities; health maintenance  
 125 organizations; home health agencies; and diagnostic, treatment, or rehabilitation centers,  
 126 but only to the extent paragraph (3) or (7), or both paragraphs (3) and (7), of subsection  
 127 (a) of Code Section 31-6-40 are applicable thereto."

128 ~~"(30) 'Personal care home'~~ 'Licensed residential living level 1 facility' means a residential  
 129 facility that is certified as a provider of medical assistance for Medicaid purposes pursuant  
 130 to Article 7 of Chapter 4 of Title 49 having at least 25 beds and providing, for compensation,  
 131 protective care and oversight of ambulatory, nonrelated persons who need a monitored  
 132 environment but who do not have injuries or disabilities which require chronic or  
 133 convalescent care, including medical, nursing, or intermediate care. ~~Personal care homes~~  
 134 Licensed residential living level 1 facilities include those facilities which monitor daily  
 135 residents' functioning and location, have the capability for crisis intervention, and provide  
 136 supervision in areas of nutrition, medication, and provision of transient medical care. Such  
 137 term does not include:

- 138 (A) Old age residences which are devoted to independent living units with kitchen  
 139 facilities in which residents have the option of preparing and serving some or all of their  
 140 own meals; or  
 141 (B) Boarding facilities which do not provide personal care."

#### 142 SECTION 11.

143 Said Code is further amended in Code Section 31-7-1, relating to definitions relative to  
 144 regulation of hospitals and related institutions, by revising subparagraph (A) of paragraph  
 145 (4) as follows:

146 "(A) Any building, facility, or place in which are provided two or more beds and other  
 147 facilities and services that are used for persons received for examination, diagnosis,  
 148 treatment, surgery, maternity care, nursing care, ~~assisted living~~ licensed residential  
 149 living level 1 care, or ~~personal~~ licensed residential living level 2 care for periods  
 150 continuing for 24 hours or longer and which is classified by the department, as provided  
 151 for in this chapter, as either a hospital, nursing home, ~~assisted living community~~  
 152 licensed residential living level 1 facility, or ~~personal care home~~ licensed residential  
 153 living level 2 facility;"

#### 154 SECTION 12.

155 Said Code is further amended in Code Section 31-7-3, relating to requirements for permits  
 156 to operate institutions, by revising subsection (d) as follows:

157 "(d)(1) When an application for licensure to operate a ~~personal care home~~ licensed  
 158 residential living level 1 facility, as defined in subsection (a) of Code Section 31-7-12,  
 159 or ~~an assisted living community~~ a licensed residential living level 2 facility, as defined  
 160 in Code Section 31-7-12.2, has been made, the department shall inform the office of the  
 161 state long-term care ombudsman of the name and address of the applicant prior to issuing  
 162 authority to operate or receive residents and shall provide to the ombudsman program an

163 opportunity to provide to the department information relevant to the applicant's fitness  
 164 to operate as a licensed ~~personal care home~~ residential living level 1 facility or an ~~assisted~~  
 165 ~~living community~~ a licensed residential living level 2 facility.

166 (2) The department may consider any information provided under this subsection, where  
 167 verified by appropriate licensing procedures, in determining whether an applicant meets  
 168 the requirements for licensing.

169 (3) The department shall promulgate regulations setting forth the procedures by which  
 170 the long-term care ombudsman program shall report information to the department or its  
 171 designee as required by this subsection, including a consistent format for the reporting  
 172 of information, safeguards to protect confidentiality, and specified types of information  
 173 which shall be routinely provided by the long-term care ombudsman program.

174 (4) Nothing in this subsection shall be construed to provide any authority to the  
 175 long-term care ombudsman program to license or refuse to license the operation of a  
 176 ~~personal care home or an assisted living community~~ licensed residential living level 1  
 177 facility or a licensed residential living level 2 facility."

178 **SECTION 13.**

179 Said Code is further amended by revising Code Section 31-7-12, relating to "personal care  
 180 home" and "personal services" defined, licensure and registration, inspection by local boards,  
 181 fees, investigations, waiver, variance, or exemption, as follows:

182 "31-7-12.

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

184 (1) ~~'Personal care home'~~ 'Licensed residential living level 1 facility' means any dwelling,  
 185 whether operated for profit or not, which undertakes through its ownership or  
 186 management to provide or arrange for the provision of housing, food service, and one or  
 187 more ~~personal~~ licensed residential living level 1 services for two or more adults who are  
 188 not related to the owner or administrator by blood or marriage. This term shall not  
 189 include host homes, as defined in paragraph (18) of subsection (b) of Code Section  
 190 37-1-20.

191 (2) ~~'Personal~~ 'Licensed residential living level 1 services' includes, but is not limited to,  
 192 individual assistance with or supervision of self-administered medication and essential  
 193 activities of daily living such as eating, bathing, grooming, dressing, and toileting.  
 194 ~~Personal~~ Licensed residential living level 1 services shall not include medical, nursing,  
 195 or health services; provided, however, that the department shall be authorized to grant a  
 196 waiver of this provision in the same manner as provided for in Code Section 31-7-12.3  
 197 for the waiver of rules and regulations and in the same manner and only to the same  
 198 extent as granted on or before June 30, 2011.

199 (b) All ~~personal care homes~~ licensed residential living level 1 facilities shall be licensed  
 200 as provided for in Code Section 31-7-3, except that, in lieu of licensure, the department  
 201 may require persons who operate ~~personal care homes~~ licensed residential living level 1  
 202 facilities with two or three beds for nonfamily adults to comply with registration  
 203 requirements delineated by the department. Such registration requirements within this  
 204 category shall authorize the department to promulgate pursuant to Chapter 13 of Title 50,  
 205 the 'Georgia Administrative Procedure Act,' reasonable standards to protect the health,  
 206 safety, and welfare of the occupants of such ~~personal care homes~~ licensed residential living  
 207 level 1 facilities.

208 (c) 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 ~~personal care homes~~ licensed residential living level 1  
 211 facilities licensed under this chapter. With approval of the department, county boards of  
 212 health may establish inspection fees to defray part of the costs of inspections performed for  
 213 the department.

214 (d) The state ombudsman or community ombudsman, on ~~that~~ such ombudsman's initiative  
 215 or in response to complaints made by or on behalf of residents of a registered or licensed  
 216 ~~personal care home~~ residential living level 1 facility, may conduct investigations in matters  
 217 within the ombudsman's powers and duties.

218 (e) The department shall promulgate procedures to govern the waiver, variance, and  
 219 exemption process related to ~~personal care homes~~ licensed residential living level 1  
 220 facilities pursuant to Chapter 2 of this title. Such procedures shall include published,  
 221 measurable criteria for the decision process, shall take into account the need for protection  
 222 of public and individual health, care, and safety, and shall afford an opportunity for public  
 223 input into the process."

#### 224 SECTION 14.

225 Said Code is further amended by revising Code Section 31-7-12.1, relating to unlicensed  
 226 personal care home, civil penalties, negligence per se for certain legal claims, declared  
 227 nuisance dangerous to public health, safety, and welfare, and criminal sanctions, as follows:

228 "31-7-12.1.

229 (a) A facility shall be deemed to be an 'unlicensed ~~personal care home~~ residential living  
 230 level 1 facility' if it is unlicensed and not exempt from licensure and:

231 (1) The facility is providing ~~personal~~ licensed residential living level 1 services and is  
 232 operating as a ~~personal care home~~ licensed residential living level 1 facility as those terms  
 233 are defined in Code Section 31-7-12;

234 (2) The facility is held out as or represented as providing ~~personal~~ licensed residential  
 235 living level 1 services and operating as a ~~personal care home~~ licensed residential living  
 236 level 1 facility as those terms are defined in Code Section 31-7-12; or

237 (3) The facility represents itself as a licensed ~~personal care home~~ residential living level  
 238 1 facility.

239 (b) Any unlicensed ~~personal care home~~ residential living level 1 facility shall be assessed  
 240 by the department, after opportunity for hearing in accordance with the provisions of  
 241 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' a civil penalty in the  
 242 amount of \$100.00 per bed per day for each day of violation of subsection (b) of Code  
 243 Section 31-7-12. The department shall send a notice by certified mail or statutory  
 244 overnight delivery stating that licensure is required and the department's intent to impose  
 245 a civil penalty. Such notice shall be deemed to be constructively received on the date of  
 246 the first attempt to deliver such notice by the United States Postal Service. The department  
 247 shall take no action to collect such civil penalty until after opportunity for a hearing.

248 (c) In addition to other remedies available to the department, the civil penalty authorized  
 249 by subsection (b) of this Code section shall be doubled if the owner or operator continues  
 250 to operate the unlicensed ~~personal care home~~ residential living level 1 facility, after receipt  
 251 of notice pursuant to subsection (b) of this Code section.

252 (d) The owner or operator of a ~~personal care home~~ residential living level 1 facility; who  
 253 is assessed a civil penalty in accordance with this Code section may have review of such  
 254 civil penalty by appeal to the superior court in the county in which the action arose or to  
 255 the Superior Court of Fulton County in accordance with the provisions of Code Section  
 256 31-5-3.

257 (e) In addition to the sanctions authorized ~~herein~~ by this Code section, an unlicensed  
 258 ~~personal care home~~ residential living level 1 facility shall be deemed to be negligent per  
 259 se in the event of any claim for personal injury or wrongful death of a resident.

260 (f) It is declared that the owning or operating of an unlicensed ~~personal care home~~  
 261 residential living level 1 facility in this state constitutes a nuisance dangerous to the public  
 262 health, safety, and welfare. Any person who owns or operates a ~~personal care home~~  
 263 residential living level 1 facility in violation of subsection (b) of Code Section 31-7-12  
 264 shall be guilty of a misdemeanor. Upon a second such violation, such person shall be  
 265 guilty of a felony."

266 **SECTION 15.**

267 Said Code is further amended by revising Code Section 31-7-12.2, relating to regulation and  
 268 licensing of assisted living communities, legislative intent, definitions, procedures, and  
 269 requirements for medication aides, as follows:

270 "31-7-12.2.

271 (a) It is the intention of the General Assembly to establish a new licensure category of  
 272 long-term care provider which shall be referred to as '~~assisted living community~~ licensed  
 273 residential living level 2 facility.' ~~An assisted living community~~ A licensed residential  
 274 living level 2 facility shall be authorized, in accordance with this Code section, to provide  
 275 certain services that are beyond the scope of services that a ~~personal care home~~ licensed  
 276 residential living level 1 facility is authorized to provide.

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

278 (1) 'Ambulatory' means the ability to move from place to place by walking, either  
 279 unaided or aided by a prosthesis, brace, cane, crutches, walker, or hand rails, or by  
 280 propelling a wheelchair and to respond to an emergency condition, whether caused by fire  
 281 or otherwise, and escape with minimal human assistance using the normal means of  
 282 egress.

283 (2) '~~Assisted living~~ Licensed residential living level 2 care' includes:

284 (A) ~~Personal~~ Licensed residential living level 1 services, which includes, but is not  
 285 limited to, individual assistance with or supervision of self-administered medication and  
 286 essential activities of daily living such as eating, bathing, grooming, dressing, and  
 287 toileting;

288 (B) The administration of medications by a medication aide in accordance with this  
 289 Code section; and

290 (C) The provision of assisted self-preservation in accordance with this Code section.

291 (3) '~~Assisted living community~~ Licensed residential living level 2 facility' means a  
 292 ~~personal care home~~ licensed residential living level 1 facility with a minimum of 25 beds  
 293 that is licensed as ~~an assisted living community~~ a licensed residential living level 2  
 294 facility pursuant to Code Section 31-7-3.

295 (4) 'Assisted self-preservation' means the capacity of a resident to be evacuated from ~~an~~  
 296 ~~assisted living community~~ a licensed residential living level 2 facility; to a designated  
 297 point of safety and within an established period of time as determined by the Office of  
 298 the Safety Fire Commissioner. Assisted self-preservation is a function of all of the  
 299 following:

300 (A) The condition of the individual;

301 (B) The assistance that is available to be provided to the individual by the staff of the  
 302 ~~assisted living community~~ licensed residential living level 2 facility; and

303 (C) The construction of the building in which the ~~assisted living community~~ licensed  
 304 residential living level 2 facility is housed, including whether such building meets the  
 305 state fire safety requirements applicable to an existing health care occupancy.

306 (5) 'Continuous medical or nursing care' means medical or nursing care required other  
307 than on a periodic basis or for a short-term illness.

308 (c) ~~An assisted living community~~ A licensed residential living level 2 facility shall not  
309 admit or retain an individual who is not ambulatory unless the individual is capable of  
310 assisted self-preservation. In the event that the department determines that one or more  
311 residents of ~~an assisted living community~~ a licensed residential living level 2 facility are  
312 not capable of assisted self-preservation due to the condition of the resident, the capabilities  
313 of the staff of the ~~assisted living community~~ licensed residential living level 2 facility, the  
314 construction of the building in which the ~~assisted living community~~ licensed residential  
315 living level 2 facility is housed, or a combination of these factors, the department shall have  
316 the authority to consider any of the following actions:

317 (1) An increase in the staffing of the ~~assisted living community~~ licensed residential living  
318 level 2 facility to a level that is sufficient to ensure that each resident is capable of  
319 assisted self-preservation;

320 (2) A change in the staffing assignments of the ~~assisted living community~~ licensed  
321 residential living level 2 facility if such change would ensure that each resident is capable  
322 of assisted self-preservation;

323 (3) A change in rooms or the location of residents as necessary to ensure that each  
324 resident is capable of assisted self-preservation;

325 (4) The utilization of any specialized equipment that would ensure that each resident is  
326 capable of assisted self-preservation. For purposes of this paragraph, specialized  
327 equipment shall only include a prosthesis, brace, cane, crutches, walker, hand rails, and  
328 a wheelchair;

329 (5) A cessation in the further admission of individuals who are not ambulatory until such  
330 time that the ~~assisted living community~~ licensed residential living level 2 facility has  
331 taken actions necessary to ensure that all residents are capable of assisted  
332 self-preservation;

333 (6) The transfer or discharge of any resident who is not capable of assisted  
334 self-preservation; and

335 (7) Any action set forth in Code Section 31-2-8.

336 (d) ~~An assisted living community~~ A licensed residential living level 2 facility shall  
337 maintain a current list of all residents who are not ambulatory but who are capable of  
338 assisted self-preservation. The list shall be provided upon request to the department and  
339 maintained at all times by the ~~assisted living community~~ licensed residential living level  
340 2 facility.

341 (e) ~~An assisted living community~~ A licensed residential living level 2 facility shall  
342 maintain fire detection and prevention equipment, including visual signals with alarms for

343 hearing impaired residents, in accordance with manufacturer instructions and the  
344 requirements of the Office of the Safety Fire Commissioner.

345 (f) ~~An assisted living community~~ A licensed residential living level 2 facility shall not  
346 admit or retain an individual who is in need of continuous medical or nursing care. Other  
347 than as permitted by a medication aide pursuant to paragraph (7) of subsection (g) of this  
348 Code section, medical, nursing, or health services required on a periodic basis, or for  
349 short-term illness, shall not be provided as services of ~~an assisted living community~~ a  
350 licensed residential living level 2 facility. When such services are required, they shall be  
351 purchased by the resident or the resident's representative or legal surrogate, if any, from  
352 appropriate providers managed independently from the ~~assisted living community~~ licensed  
353 residential living level 2 facility. ~~An assisted living community~~ A licensed residential  
354 living level 2 facility may assist in arranging for such services, but not in the provision of  
355 such services.

356 (g)(1) ~~An assisted living community~~ A licensed residential living level 2 facility may  
357 employ certified medication aides for the purpose of performing the technical aspects of  
358 the administration of certain medications in accordance with this subsection. ~~An assisted~~  
359 ~~living community~~ A licensed residential living level 2 facility that employs one or more  
360 certified medication aides must have a safe medication and treatment administration  
361 system that meets all the requirements of this subsection.

362 (2) The department shall establish and maintain a medication aide registry containing the  
363 names of each individual in Georgia who is certified by the department as a medication  
364 aide. ~~An assisted living community~~ A licensed residential living level 2 facility may not  
365 employ an individual as a medication aide unless the individual is listed in the medication  
366 aide registry in good standing.

367 (3) An applicant for certification as a medication aide shall meet the following  
368 qualifications:

369 (A) Be a Georgia certified nurse aide with current certification in good standing;

370 (B) Have successfully completed a ~~state-approved~~ state approved medication aide  
371 training program administered by a Georgia licensed registered nurse, pharmacist, or  
372 physician;

373 (C) Have successfully passed, with a minimum passing score of 80 percent, a written  
374 competency examination; and

375 (D) Have demonstrated the requisite clinical skills to serve as a medication aide in  
376 accordance with a standardized checklist developed by the department.

377 (4) A record of the successful completion of the written competency examination and  
378 clinical skills standardized checklist by an applicant for certification as a medication aide  
379 shall be included in the medication aide registry within 30 business days of evaluation.

380 Each candidate for certification as a medication aide shall have the opportunity to take  
381 the written competency examination three times before being required to retake and  
382 successfully complete the medication aide training program.

383 (5) ~~An assisted living community~~ A licensed residential living level 2 facility shall  
384 annually conduct a comprehensive clinical skills competency review of each medication  
385 aide employed by the ~~assisted living community~~ licensed residential living level 2  
386 facility.

387 (6) Certificates issued pursuant to this subsection shall be renewed biennially according  
388 to schedules and fees approved by the department.

389 (7) A medication aide who meets the criteria established in this subsection shall be  
390 permitted to perform the following tasks in ~~an assisted living community~~ a licensed  
391 residential living level 2 facility in accordance with the written instructions of a  
392 physician:

393 (A) Administer physician ordered oral, ophthalmic, topical, otic, nasal, vaginal, and  
394 rectal medications;

395 (B) Administer insulin, epinephrine, and B12 pursuant to physician direction and  
396 protocol;

397 (C) Administer medication via a metered dose inhaler;

398 (D) Conduct finger stick blood glucose testing following established protocol;

399 (E) Administer a commercially prepared disposable enema as ordered by a physician;  
400 and

401 (F) Assist residents in the supervision of self-administration of medication.

402 (8) A medication aide shall record in the medication administration record all  
403 medications that the medication aide has personally administered to a resident of ~~an~~  
404 ~~assisted living community~~ a licensed residential living level 2 facility and any refusal of  
405 a resident to take a medication. A medication aide shall observe a resident to whom  
406 medication has been administered and report any changes in the condition of such  
407 resident to the personal representative or legal surrogate of the resident.

408 (9) All medication administered by a medication aide in accordance with this Code  
409 section shall be in unit or multidose packaging.

410 (10) ~~An assisted living community~~ A licensed residential living level 2 facility that  
411 employs one or more medication aides to administer medications in accordance with this  
412 subsection shall secure the services of a licensed pharmacist to perform the following  
413 duties:

414 (A) Perform a quarterly review of the drug regimen of each resident of the ~~assisted~~  
415 ~~living community~~ licensed residential living level 2 facility and report any irregularities

- 416 to the ~~assisted living community~~ licensed residential living level 2 facility  
 417 administrator;
- 418 (B) Remove for proper disposal any drugs that are expired, discontinued, in a  
 419 deteriorated condition, or where the resident for whom such drugs were ordered is no  
 420 longer a resident;
- 421 (C) Establish or review policies and procedures for safe and effective drug therapy,  
 422 distribution, use, and control; and
- 423 (D) Monitor compliance with established policies and procedures for medication  
 424 handling and storage.
- 425 (11) ~~An assisted living community~~ A licensed residential living level 2 facility that  
 426 employs one or more medication aides to administer medications in accordance with this  
 427 subsection shall ensure that each medication aide receives ongoing medication training  
 428 as prescribed by the department. A registered professional nurse or pharmacist shall  
 429 conduct random medication administration observations on a quarterly basis and report  
 430 any issues to the ~~assisted living community~~ licensed residential living level 2 facility  
 431 administrator.
- 432 (h) ~~An assisted living community~~ A licensed residential living level 2 facility shall  
 433 establish a written care plan for each resident. Such care plan shall describe the needs of  
 434 the resident and how such needs will be met.
- 435 (i) ~~An assisted living community~~ A licensed residential living level 2 facility shall not be  
 436 permitted to enroll as a provider of medical assistance, as defined in paragraph (6) of Code  
 437 Section 49-4-141, or receive any funds authorized or paid pursuant to Title XIX of the  
 438 Social Security Act."

#### 439 SECTION 16.

440 Said Code is further amended by revising Code Section 31-7-12.3, relating to adoption of  
 441 rules and regulations, as follows:

442 "31-7-12.3.

443 The department shall adopt rules and regulations to implement Code Sections 31-7-12 and  
 444 31-7-12.2. Such rules and regulations shall establish meaningful distinctions between the  
 445 levels of care provided by ~~personal care homes, assisted living communities~~ licensed  
 446 residential living level 1 facilities, licensed residential living level 2 facilities, and nursing  
 447 homes but shall not curtail the scope or levels of services provided by ~~personal care homes~~  
 448 licensed residential living level 1 facilities or nursing homes as of June 30, 2011; provided,  
 449 however, that nothing in this chapter shall preclude the department from issuing waivers  
 450 or variances to ~~personal care homes~~ licensed residential living level 1 facilities of the rules

451 and regulations established pursuant to this Code section. Notwithstanding Code Section  
452 31-2-9 or 31-7-12.2, the department shall not grant a waiver or variance unless:

453 (1) There are adequate standards affording protection for the health and safety of  
454 residents of the ~~personal care home~~ licensed residential living level 1 facility;

455 (2) The resident of the ~~personal care home~~ licensed residential living level 1 facility  
456 provides a medical assessment conducted by a licensed health care professional who is  
457 unaffiliated with the ~~personal care home~~ licensed residential living level 1 facility which  
458 identifies the needs of the resident; and

459 (3) The department finds that the ~~personal care home~~ licensed residential living level 1  
460 facility can provide or arrange for the appropriate level of care for the resident."

461 **SECTION 17.**

462 Said Code is amended in Code Section 31-7-111, relating to findings and declaration of  
463 policy, by revising paragraph (1) of subsection (a) as follows:

464 "(1) There exists in this state a seriously inadequate supply of and a critical need for  
465 facilities which can furnish the comprehensive services required by elderly persons in a  
466 single location, including, without limitation, residential care and the types of services  
467 provided in skilled nursing homes, intermediate care homes, ~~assisted living communities,~~  
468 ~~and personal care homes~~ licensed residential living level 1 facilities, and licensed  
469 residential living level 2 facilities (~~hereinafter referred to as 'residential care facilities for~~  
470 ~~the elderly');~~");"

471 **SECTION 18.**

472 Said Code is further amended in Code Section 31-7-112, relating to definitions relative to the  
473 "Residential Care Facilities for the Elderly Authorities Act," by revising subparagraph (A)  
474 of paragraph (7) as follows:

475 "(A) Any one or more buildings or structures to be used in providing at a single  
476 location the comprehensive services required by the elderly, including, without  
477 limitation, residential care and the types of services provided in skilled nursing homes,  
478 intermediate care homes, ~~assisted living communities, and personal care homes~~ licensed  
479 residential living level 1 facilities, and licensed residential living level 2 facilities  
480 supplied with all necessary or useful furnishings, machinery, equipment, parking  
481 facilities, landscaping, and facilities for outdoor storage, all as determined by the  
482 authority, which determination shall be final and not subject to review; provided,  
483 however, that no single project or residential care facility shall be required to render all  
484 types of services and levels of care referred to ~~above~~ in this subparagraph. There may  
485 be included as part of any such project all improvements necessary to the full utilization

486 thereof, including, without limitation, site preparation; roads and streets; sidewalks;  
 487 water supply; outdoor lighting; belt line railroad; railroad sidings and lead tracks;  
 488 bridges; causeways; terminals for railroad, automotive, and air transportation;  
 489 transportation facilities incidental to the project; and the dredging and improving of  
 490 harbors and waterways. However, none of the ~~mentioned~~ improvements in this  
 491 subparagraph shall be the primary purpose of any project;"

492 **SECTION 19.**

493 Said Code is further amended in Code Section 31-7-172, relating to definitions relative to the  
 494 "Georgia Hospice Law," by revising paragraph (4) as follows:

495 "(4) 'Health care facility' means hospitals; other special care units, including but not  
 496 limited to podiatric facilities; skilled nursing facilities; intermediate care facilities;  
 497 ~~assisted living communities; personal care homes~~ licensed residential living level 1  
 498 facilities; licensed residential living level 2 facilities; ambulatory surgical or obstetrical  
 499 facilities; health maintenance organizations; home health agencies; and diagnostic,  
 500 treatment, or rehabilitation centers."

501 **SECTION 20.**

502 Said Code is further amended by revising Code Section 31-7-250, relating to definitions  
 503 relative to facility leasing and employee records checks, as follows:

504 "31-7-250.

505 As used in this article, the term:

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

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

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

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

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

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

513 (E) A felony violation of Code Section 16-8-3, relating to theft by deception;

514 (F) A felony violation of Code Section 16-8-4, relating to theft by conversion;

515 (G) A felony violation of Code Section 16-9-1;

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

517 (I) A violation of Code Section 16-4-1, relating to criminal attempt as it concerns  
 518 attempted murder;

519 (J) A violation of Code Section 16-8-40, relating to robbery;

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

- 521 (L) A violation of Chapter 13 of Title 16, relating to controlled substances;
- 522 (M) A violation of Code Section 16-5-23.1, relating to battery;
- 523 (N) A violation of Code Section 16-6-5.1, relating to sexual assault against a person  
524 in custody;
- 525 (O) A violation of Code Section 30-5-8, relating to abuse, neglect, or exploitation of  
526 a disabled adult or elder person;
- 527 (P) Any other offense committed in another jurisdiction which, if committed in this  
528 state, would be deemed to be such a crime without regard to its designation elsewhere;  
529 or
- 530 (Q) Any other criminal offense as determined by the department and established by  
531 rule adopted pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure  
532 Act,' that would indicate the unfitness of an individual to provide care to or be in  
533 contact with persons residing in a facility.
- 534 (3) 'Criminal record' means any of the following:
- 535 (A) Conviction of a crime;
- 536 (B) Arrest, charge, and sentencing for a crime where:
- 537 (i) A plea of nolo contendere was entered to the charge;
- 538 (ii) First offender treatment without adjudication of guilt pursuant to the charge was  
539 granted; or
- 540 (iii) Adjudication or sentence was otherwise withheld or not entered on the charge;  
541 or
- 542 (C) Arrest and being charged for a crime if the charge is pending, unless the time for  
543 prosecuting such crime has expired pursuant to Chapter 3 of Title 17.
- 544 (3.1) 'Department' means the Department of Community Health.
- 545 (4) 'Director' means the chief administrative or executive officer or manager.
- 546 (5) 'Employee' means any person, other than a director, utilized by a ~~personal care home~~  
547 licensed residential living level 1 facility to provide ~~personal~~ licensed residential living  
548 level 1 services to any resident on behalf of the ~~personal care home~~ licensed residential  
549 living level 1 facility or to perform at any facilities of the ~~personal care home~~ licensed  
550 residential living level 1 facility any duties which involve personal contact between that  
551 person and any paying resident of the ~~personal care home~~ licensed residential living level  
552 1 facility.
- 553 (6) 'Facility' means real property of a ~~personal care home~~ licensed residential living level  
554 1 facility where residents reside.
- 555 (7) 'Fingerprint records check determination' means a satisfactory or unsatisfactory  
556 determination by the department based upon a records check comparison of GCIC  
557 information with fingerprints and other information in a records check application.

- 558 (8) 'GCIC' means the Georgia Crime Information Center established under Article 2 of  
 559 Chapter 3 of Title 35.
- 560 (9) 'GCIC information' means criminal history record information as defined in Code  
 561 Section 35-3-30.
- 562 (10) 'License' means the permit or document issued by the department to authorize the  
 563 ~~personal care home~~ licensed residential living level 1 facility to which it is issued to  
 564 operate a facility under this chapter.
- 565 (11) ~~'Personal care home or home~~ Licensed residential living level 1 facility' means a  
 566 ~~home~~ facility required to be licensed or permitted under Code Section 31-7-12 or ~~an~~  
 567 ~~assisted living community~~ a licensed residential living level 2 facility as defined in Code  
 568 Section 31-7-12.2.
- 569 (11.1) ~~'Personal~~ Licensed residential living level 1 services' includes, but is not limited  
 570 to, individual assistance with or supervision of self-administered medication and essential  
 571 activities of daily living such as eating, bathing, grooming, dressing, and toileting.
- 572 (12) 'Preliminary records check application' means an application for a preliminary  
 573 records check determination on forms provided by the department.
- 574 (13) 'Preliminary records check determination' means a satisfactory or unsatisfactory  
 575 determination by the department based only upon a comparison of GCIC information  
 576 with other than fingerprint information regarding the person upon whom the records  
 577 check is being performed.
- 578 (14) 'Records check application' means two sets of classifiable fingerprints, a records  
 579 search fee to be established by the department by rule and regulation, payable in such  
 580 form as the department may direct to cover the cost of a fingerprint records check under  
 581 this article, and an affidavit by the applicant disclosing the nature and date of any arrest,  
 582 charge, or conviction of the applicant for the violation of any law, except for motor  
 583 vehicle parking violations, whether or not the violation occurred in this state, and such  
 584 additional information as the department may require.
- 585 (15) 'Regular license' means a permit which will remain in effect for the ~~personal care~~  
 586 ~~home~~ licensed residential living level 1 facility, until and unless the facility ceases to  
 587 operate or revocation proceedings are commenced.
- 588 (16) 'Satisfactory determination' means a written determination that a person for whom  
 589 a records check was performed was found to have no criminal record.
- 590 (17) 'Temporary license' means a provisional permit which expires six months or 12  
 591 months from the date of issuance, unless extended for good cause by the department.
- 592 (18) 'Unsatisfactory determination' means a written determination that a person for  
 593 whom a records check was performed has a criminal record."

594

**SECTION 21.**

595 Said Code is further amended in Code Section 31-7-258, relating to change of facility  
 596 director, notification to department, and effect of department determination, by revising  
 597 subsections (b) and (c) as follows:

598 "(b) If the department determines under subsection (a) of this Code section that there has  
 599 ever been an unsatisfactory preliminary or fingerprint records check determination of the  
 600 newly designated director, the ~~personal care home~~ licensed residential living level 1 facility  
 601 and ~~that such~~ director shall be notified thereof. The license for ~~that such~~ director's facility  
 602 shall be indefinitely suspended unless the ~~personal care home~~ licensed residential living  
 603 level 1 facility designates another director for whom it has not received or made an  
 604 unsatisfactory preliminary or fingerprint records check determination and proceeds  
 605 pursuant to the provisions of this Code section relating to a change of director.

606 (c) If the department determines under subsection (a) of this Code section that there has  
 607 been no fingerprint records check determination regarding the newly designated director  
 608 within the immediately preceding 12 months, the department shall so notify the ~~personal~~  
 609 ~~care home~~ licensed residential living level 1 facility. The ~~personal care home~~ licensed  
 610 residential living level 1 facility shall furnish to the department the records check  
 611 application of the newly designated director or the license of ~~that such~~ facility shall be  
 612 indefinitely suspended. If ~~that such~~ records check application is so received, unless the  
 613 department has within the immediately preceding 12 months made a satisfactory  
 614 preliminary records check determination regarding the newly designated director, the  
 615 department shall perform a preliminary records check and determination of the newly  
 616 designated director; and the applicant and ~~that such~~ director shall be notified thereof. If  
 617 ~~that such~~ determination is unsatisfactory, the provisions of subsection (b) of this Code  
 618 section regarding procedures after notification shall apply. If ~~that such~~ determination is  
 619 satisfactory, the department shall perform a fingerprint records check and determination  
 620 for ~~that such~~ director as provided in Code Sections 31-7-254 and 31-7-255. If ~~that such~~  
 621 determination is satisfactory, the ~~personal care home~~ licensed residential living level 1  
 622 facility and director for whom the determination was made shall be so notified, and the  
 623 license for the facility at which ~~that such~~ person is the newly designated director shall not  
 624 be adversely affected by ~~that such~~ change of director. If ~~that such~~ determination is  
 625 unsatisfactory, the provisions of subsection (b) of this Code section shall apply."

626

**SECTION 22.**

627 Said Code is further amended by revising Code Section 31-7-259, relating to preliminary  
 628 records check determination, suspension or revocation of license, refusal to issue regular

629 license, fingerprint check, employment history, director's criminal liability, exempt  
630 employees, mitigating factors in criminal records check, and civil penalties, as follows:

631 "31-7-259.

632 (a) Before a person may become a director of any facility that has received either a  
633 temporary or regular license, ~~that such~~ facility shall require ~~that such~~ person to furnish to  
634 the department a preliminary records check application and a records check application and  
635 the department shall, under the procedures of Code Sections 31-7-252 and 31-7-253, make  
636 a preliminary records check determination and send notice thereof to the facility and  
637 director prior to the director beginning work. If the preliminary records check is  
638 unsatisfactory, the facility shall not hire the director. If the subsequent fingerprint records  
639 check determination is unsatisfactory, the facility shall take such steps as are necessary so  
640 that such person is no longer the director of the facility.

641 (b) Before a person may become an employee of a facility, each potential employee of a  
642 facility shall request a criminal record check from a local law enforcement agency and  
643 submit the results of the criminal record check to the facility. The ~~personal care home~~  
644 licensed residential living level 1 facility shall be authorized to rely on written information  
645 received from a local law enforcement agency, GCIC, or other official agency to determine  
646 whether the applicant for employment has a criminal record. A ~~personal care home~~  
647 licensed residential living level 1 facility shall not employ a person with an unsatisfactory  
648 determination.

649 (c) In addition, where an applicant for employment at a ~~personal care home~~ licensed  
650 residential living level 1 facility has not been a resident of ~~the~~ this state for a period of three  
651 years preceding the date of application for employment, the ~~personal care home~~ licensed  
652 residential living level 1 facility shall attempt to obtain a criminal record check from the  
653 local law enforcement agency of the applicant's previous state of residence. If the local  
654 criminal record check from either the applicant's previous state of residence or this state  
655 indicates multistate offender status, the ~~personal care home~~ licensed residential living level  
656 1 facility shall not employ the applicant until a determination is made as to whether the  
657 applicant has a criminal record. If the ~~personal care home~~ licensed residential living level  
658 1 facility elects to determine the nature of the criminal activity, the ~~personal care home~~  
659 licensed residential living level 1 facility shall transmit the preliminary records check  
660 application and the records check application on behalf of the potential employee to the  
661 department for processing through the GCIC. A ~~personal care home~~ licensed residential  
662 living level 1 facility shall not employ a person with an unsatisfactory determination.

663 (d) If the ~~personal care home~~ licensed residential living level 1 facility is unable to obtain  
664 a criminal record check from the local law enforcement agency of the applicant's previous  
665 state of residence, it shall transmit a records check application to the department which

666 shall process the application through the GCIC. A ~~personal care home~~ licensed residential  
667 living level 1 facility shall not employ a person with an unsatisfactory determination.

668 (e) The fee for a criminal records check under this Code section shall be no greater than  
669 the actual cost of processing the request and shall be paid by the ~~personal care home~~  
670 licensed residential living level 1 facility or by the applicant for employment. The law  
671 enforcement agency of this state receiving the request shall perform a criminal record  
672 check for a ~~personal care home~~ licensed residential living level 1 facility within a  
673 reasonable time but in any event within a period not to exceed three days of receiving the  
674 request.

675 (f) Each application form provided by the employer to the applicant for employment shall  
676 conspicuously state the following: 'FOR THIS TYPE OF EMPLOYMENT, STATE LAW  
677 REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT.'

678 (g) Both temporary and regular licenses are subject to suspension or revocation or the  
679 department may refuse to issue a regular license if a person becomes a director or employee  
680 subsequent to the granting of a license and ~~that~~ such person does not undergo the records  
681 checks applicable to that director or employee and receive a satisfactory determination.

682 (h) After the issuance of a regular or temporary license, the department may require a  
683 fingerprint records check on any director or employee to confirm identification for records  
684 search purposes, or when subsequent to a preliminary records check, the department has  
685 reason to believe that the director or employee has a criminal record. The department may  
686 require a fingerprints record check on any director or employee during the course of an  
687 abuse investigation involving the director or employee. In such instances, the department  
688 shall require the director or employee to furnish two full sets of fingerprints which the  
689 department shall submit to the GCIC together with appropriate fees collected from the  
690 director or employee or ~~personal care home~~ licensed residential living level 1 facility.  
691 Upon receipt thereof, the GCIC shall promptly transmit one set of fingerprints to the  
692 Federal Bureau of Investigation for a search of bureau records and an appropriate report  
693 and retain the other set and promptly conduct a search of its records and records to which  
694 it has access. The GCIC shall notify the department in writing of any derogatory finding,  
695 including but not limited to any criminal record obtained through the fingerprint record  
696 check or if there is no such finding. Where the department determines that the director or  
697 employee has a criminal record, the department shall notify the facility of the  
698 unsatisfactory determination and the facility shall take such steps as are necessary so that  
699 such person is no longer the director or an employee of the facility.

700 (i) No ~~personal care home~~ licensed residential living level 1 facility may have any person  
701 as an employee after July 1, 2002, unless there is on file in the ~~personal care home~~ licensed

702 residential living level 1 facility an employment history for ~~that~~ such person and a  
703 satisfactory determination that the person does not have a criminal record.

704 (j) Except as provided in subsection (l) of this Code section, a director of a facility having  
705 an employee whom ~~that~~ such director knows or should reasonably know to have a criminal  
706 record, as defined in Code Section 31-7-250, shall be guilty of a misdemeanor.

707 (k) The provisions of this Code section shall not apply to a member of the administrative  
708 staff or an applicant for an administrative staff position of a ~~personal care home~~ licensed  
709 residential living level 1 facility whose duties do not include management of resident funds  
710 or personal contact between ~~that~~ such person and any paying resident of the ~~home~~ facility.

711 (l) Where a ~~personal care home~~ licensed residential living level 1 facility determines that  
712 an applicant for employment has a criminal record but there are matters in mitigation of the  
713 criminal record, no physical harm was done to the victim, and the ~~personal care home~~  
714 licensed residential living level 1 facility would like to hire the applicant, the ~~personal care~~  
715 ~~home~~ licensed residential living level 1 facility may submit an application for a preliminary  
716 records check to the department on behalf of the potential employee on forms provided by  
717 the department. The ~~personal care home~~ licensed residential living level 1 facility shall not  
718 hire the potential employee to work in the ~~home~~ facility until the ~~personal care home~~  
719 licensed residential living level 1 facility receives notification from the department that the  
720 applicant either has a satisfactory criminal record check or an administrative law judge has  
721 determined that the applicant is authorized to work in a ~~personal care home~~ licensed  
722 residential living level 1 facility.

723 (m) Except as provided in subsection (l) of this Code section, a ~~personal care home~~  
724 licensed residential living level 1 facility that hires an applicant for employment with a  
725 criminal record is in violation of licensing requirements, and the department is authorized  
726 to impose a civil penalty pursuant to the authority granted it under the rules and regulations  
727 for the enforcement of licensing requirements."

728 **SECTION 23.**

729 Said Code is further amended in Code Section 31-7-265, relating to facility licensing and  
730 employee records checks for personal care homes transferred to Department of Community  
731 Health, by revising subsection (a) as follows:

732 "(a) Effective July 1, 2009, all matters relating to facility licensing and employee records  
733 checks for ~~personal care homes~~ licensed residential living level 1 facilities pursuant to this  
734 article shall be transferred from the Department of Human Resources (now known as the  
735 Department of Human Services) to the Department of Community Health."

736 **SECTION 24.**

737 Said Code is further amended in Code Section 31-7-300, relating to definitions relative to  
 738 private home care providers, by revising paragraph (6) as follows:

739 "(6) 'Residence' means the place where an individual makes ~~that person's~~ his or her  
 740 permanent or temporary home, whether ~~that person's~~ his or her own apartment or house,  
 741 a friend or relative's home, or a ~~personal care home~~ licensed residential living level 1  
 742 facility, but shall not include a hospital, nursing home, hospice, or other health care  
 743 facility licensed under Article 1 of this chapter."

744 **SECTION 25.**

745 Said Code is further amended in Code Section 31-7-305, relating to exempt services, by  
 746 revising paragraph (5) as follows:

747 "(5) When those services are provided in a ~~personal care home~~ licensed residential living  
 748 level 1 facility by the staff of the ~~personal care home~~ licensed residential living level 1  
 749 facility;"

750 **SECTION 26.**

751 Said Code is further amended in Code Section 31-7-307, relating to certificate of need not  
 752 required of licensees and operation of licensee as home health agency not authorized, by  
 753 revising subsection (a) as follows:

754 "(a) A certificate of need issued pursuant to Chapter 6 of this title is not required for any  
 755 person, business entity, corporation, or association, whether operated for profit or not for  
 756 profit, which is operating as a private home care provider as so long as such operation does  
 757 not also constitute such person, entity, or organization operating as a home health agency  
 758 or ~~personal care home~~ licensed residential living level 1 facility under this chapter."

759 **SECTION 27.**

760 Said Code is further amended in Code Section 31-8-51, relating to definitions relative to  
 761 long-term care ombudsman program, by revising paragraph (2) as follows:

762 "(2) 'Long-term care facility' means any skilled nursing home, intermediate care home,  
 763 ~~assisted living community, or personal care home~~ licensed residential living level 1  
 764 facility, or licensed residential living level 2 facility now or hereafter subject to regulation  
 765 and licensure by the Department of Community Health."

766 **SECTION 28.**

767 Said Code is further amended by revising Code Section 31-8-52, relating to establishment  
 768 of the long-term care ombudsman program, as follows:

769 "31-8-52.  
 770 Pursuant to the Older Americans Act of 1965 (P.L. 89-73, 79 Stat. 219), as amended, and  
 771 as a condition of receiving funds under that act for various programs for older citizens of  
 772 this state, the Department of Human Services has been required to establish and operate a  
 773 long-term care ombudsman program. In order to receive such funds, the department has  
 774 already established a position of state ombudsman within the state Office of Special  
 775 Programs. The state ombudsman shall be under the direct supervision of the commissioner  
 776 of human services or his or her designee and shall be given the powers and duties hereafter  
 777 provided by this article. The state ombudsman shall be a person qualified by training and  
 778 experience in the field of aging or long-term care, or both. The state ombudsman shall  
 779 promote the well-being and quality of life of residents in long-term care facilities and  
 780 encourage the development of community ombudsman activities at the local level. The  
 781 state ombudsman may certify community ombudsmen and such certified ombudsmen shall  
 782 have the powers and duties set forth in Code Sections 31-8-54 and 31-8-55. The state  
 783 ombudsman shall require such community ombudsmen to receive appropriate training as  
 784 determined and approved by the department prior to certification. Such training shall  
 785 include an internship of at least seven working days in a nursing home and at least three  
 786 working days in a ~~personal care home~~ licensed residential living level 1 facility. Upon  
 787 certification, the state ombudsman shall issue an identification card which shall be  
 788 presented upon request by community ombudsmen whenever needed to carry out the  
 789 purposes of this article. Two years after first being certified and every two years thereafter,  
 790 each such community ombudsman, in order to carry out his or her duties under this article,  
 791 shall be recertified by the state ombudsman as continuing to meet the department's  
 792 standards as community ombudsman."

793 **SECTION 29.**

794 Said Code is further amended in Code Section 31-8-81, relating to definitions relative to the  
 795 "Long-term Care Facility Resident Abuse Reporting Act," by revising paragraph (3) as  
 796 follows:

797 "(3) 'Long-term care facility' or 'facility' means any skilled nursing home, intermediate  
 798 care home, ~~assisted living community, personal care home~~ licensed residential living  
 799 level 1 facility, licensed residential living level 2 facility, or community living  
 800 arrangement now or hereafter subject to regulation and licensure by the department."

801 **SECTION 30.**

802 Said Code is further amended by revising Code Section 31-8-130, relating to a short title, as  
 803 follows:

804 "31-8-130.

805 This article shall be known and may be cited as the 'Remedies for Residents of ~~Personal~~  
806 ~~Care Homes~~ Licensed Residential Living Level 1 Facilities Act.'"

807 **SECTION 31.**

808 Said Code is further amended by revising Code Section 31-8-131, relating to legislative  
809 findings and intent, as follows:

810 "31-8-131.

811 The General Assembly finds that persons residing within ~~personal care homes~~ licensed  
812 residential living level 1 facilities are often isolated from the community and often lack the  
813 means to assert fully their rights as individual citizens. The General Assembly also  
814 recognizes that in order for the rights of residents of ~~personal care homes~~ licensed  
815 residential living level 1 facilities to be fully protected, residents must be afforded a means  
816 of recourse when such rights have been denied. It is therefore the intent of the General  
817 Assembly to preserve the dignity and personal integrity of residents of ~~personal care homes~~  
818 licensed residential living level 1 facilities by providing access to a legal process to hear  
819 and redress the grievances of such residents regarding their individual rights."

820 **SECTION 32.**

821 Said Code is further amended by revising Code Section 31-8-132, relating to definitions  
822 relative to the "Remedies for Residents of Personal Care Homes Act," as follows:

823 "31-8-132.

824 As used in this article, the term:

825 (1) 'Administrator' means the manager designated by the governing body of a ~~personal~~  
826 ~~care home~~ licensed residential living level 1 facility as responsible for the day-to-day  
827 management, administration, and supervision of the ~~personal care home~~ licensed  
828 residential living level 1 facility, who may also serve as on-site manager and responsible  
829 staff person except during periods of his or her own absence.

830 (2) 'Community ombudsman' means a person certified as a community ombudsman  
831 pursuant to Code Section 31-8-52.

832 (2.1) 'Department' means the Department of Community Health.

833 (3) 'Governing body' means the board of trustees, the partnership, the corporation, the  
834 association, or the person or group of persons who maintain and control a ~~personal care~~  
835 ~~home~~ licensed residential living level 1 facility and who are legally responsible for the  
836 operation of the ~~home~~ facility.

837 (4) 'Legal surrogate' means a duly appointed person who is authorized to act, within the  
838 scope of the authority granted under the legal surrogate's appointment, on behalf of a

839 resident who is adjudicated or certified incapacitated. No member of the governing body,  
 840 administration, or staff of a ~~personal care home~~ licensed residential living level 1 facility  
 841 or any affiliated ~~personal care home~~ licensed residential living level 1 facility or their  
 842 family members may serve as the legal surrogate for a resident.

843 (5) ~~'Personal care home' or 'home'~~ 'Licensed residential living level 1 facility' or 'facility'  
 844 means a facility as defined in Code Section 31-7-12 and shall include any ~~assisted living~~  
 845 ~~community~~ licensed residential living level 2 facility as defined in paragraph (3) of  
 846 subsection (b) of Code Section 31-7-12.2 that is subject to regulation and licensure by the  
 847 department.

848 (6) 'Representative' means a person who voluntarily, with the resident's written  
 849 authorization, may act upon the resident's direction with regard to matters concerning the  
 850 health and welfare of the resident, including being able to access personal records  
 851 contained in the resident's file and receive information and notices pertaining to the  
 852 resident's overall care and condition. No member of the governing body, administration,  
 853 or staff of a ~~personal care home~~ licensed residential living level 1 facility or any affiliated  
 854 ~~personal care home~~ licensed residential living level 1 facility or their family members  
 855 may serve as the representative for a resident.

856 (7) 'Resident' means a person who resides in a ~~personal care home~~ licensed residential  
 857 living level 1 facility.

858 (8) 'State ombudsman' means the state ombudsman established under Code Section  
 859 31-8-52."

### 860 **SECTION 33.**

861 Said Code is further amended in Code Section 31-8-134, relating to grievance procedure, by  
 862 revising subsection (a) as follows:

863 "(a) Any resident, or the representative or legal surrogate of the resident, if any, who  
 864 believes his or her rights under this article have been violated by a ~~personal care home~~  
 865 licensed residential living level 1 facility or its governing body, administrator, or employee  
 866 shall be permitted to file a grievance under this Code section."

### 867 **SECTION 34.**

868 Said Code is further amended by revising Code Section 31-8-135, relating to hearing and  
 869 transfer of resident, as follows:

870 "31-8-135.

871 (a) Any resident, the representative or legal surrogate of the resident, if any, or the state  
 872 or community ombudsman, who believes the resident's rights have been violated by a  
 873 ~~personal care home~~ licensed residential living level 1 facility, its governing body,

874 administrator, or employee, shall have the right to request a hearing from the department  
875 pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

876 (b) No person shall be prohibited from requesting a hearing pursuant to subsection (a) of  
877 this Code section for failure to exhaust any rights to other relief granted under this article.

878 (c)(1) Except as provided in paragraph (2) of this subsection, the hearing provided for  
879 in subsection (a) of this Code section shall be conducted within 45 days of the receipt by  
880 the department of the request for a hearing. Where the state or community ombudsman  
881 has not already been involved in the matter at issue, the department may refer the request  
882 for a hearing to the state or community ombudsman for informal resolution pending the  
883 hearing. Such referral shall not extend the 45 day period in which the department shall  
884 conduct such hearing.

885 (2) If a resident or a resident's legal surrogate or representative, if any, alleges that an  
886 action or failure to act by a ~~personal care home~~ licensed residential living level 1 facility  
887 or its governing body, administrator, or employee is in retaliation for the exercise by ~~that~~  
888 such resident or his or her representative or legal surrogate, if any, of a right conferred  
889 by state or federal law or court order, the hearing provided for in subsection (a) of this  
890 Code section shall be conducted within 15 days of the receipt of the department of the  
891 request for a hearing. For such hearing, all pending requests for hearing by the resident  
892 or his or her legal surrogate or representative, if any, relating to such resident shall be  
893 consolidated.

894 (d) No transfer of a resident shall take place until all appeal rights are exhausted, unless:

895 (1) An immediate transfer is necessary because the resident develops a physical or  
896 mental condition requiring continuous medical or nursing care; or

897 (2) The resident's continuing behavior or condition directly and substantially threatens  
898 the health, safety, and welfare of the resident or any other resident.

899 (e) The department shall hold any hearing provided for in subsection (a) of this Code  
900 section at the ~~personal care home~~ licensed residential living level 1 facility upon the  
901 resident's request or as necessary due to the resident's physical condition. Where two or  
902 more residents of a ~~personal care home~~ licensed residential living level 1 facility allege a  
903 common complaint, the department may at the residents' request schedule a single hearing.

904 (f) If the department finds no violations of this article, the resident and ~~personal care home~~  
905 licensed residential living level 1 facility will be so informed. If a violation has occurred:

906 (1) The hearing officer shall so notify the staff within the department responsible for the  
907 licensure of ~~personal care homes~~ licensed residential living level 1 facilities;

908 (2) The department shall order the ~~personal care home~~ licensed residential living level  
909 1 facility to correct such violation; and

910 (3) Upon failure of the ~~personal care home~~ licensed residential living level 1 facility to  
 911 correct such violation within a reasonable time, the department may impose appropriate  
 912 civil penalties as provided for in Code Section 31-2-8."

913 **SECTION 35.**

914 Said Code is further amended by revising Code Section 31-8-136, relating to action for  
 915 damages, as follows:

916 "31-8-136.

917 (a) Any resident or the representative or legal surrogate of the resident, if any, may bring  
 918 an action in a court of competent jurisdiction to recover actual and punitive damages  
 919 against a ~~personal care home~~ licensed residential living level 1 facility or its governing  
 920 body, administrator, or employee for any violation of the rights of a resident granted under  
 921 this article. Upon referral and request by the department, the Attorney General may bring  
 922 such an action. Where a violation of a resident's rights has been found, the resident shall  
 923 be awarded the actual damages or \$1,000.00, whichever is greater, and may be awarded  
 924 punitive damages.

925 (b) No person shall be prohibited from maintaining an action pursuant to this Code section  
 926 for failure to exhaust any rights to administrative or other relief granted under this article.

927 (c) The right of a resident to bring an action pursuant to this Code section is in addition to  
 928 any and all other rights, remedies, or causes of action the resident may have by statute or  
 929 at common law.

930 (d) Any resident or the representative or legal surrogate of the resident, if any, may bring  
 931 an action to recover damages for any action of a ~~personal care home~~ licensed residential  
 932 living level 1 facility or its governing body, administrator, or employee that adversely  
 933 affects the resident's rights, privileges, or living arrangement in retaliation for that resident  
 934 or his or her representative or legal surrogate, if any, having exercised a right conferred by  
 935 state or federal law or court order. Upon referral and request by the department, the  
 936 Attorney General may bring such an action. In any action brought under this Code section  
 937 alleging retaliation, there shall be a presumption of retaliatory conduct, rebuttable by a  
 938 showing of clear and convincing evidence, if an owner, licensee, administrator, or  
 939 employee attempts to discharge, transfer, or relocate a resident involuntarily within six  
 940 months after that resident or his or her representative or legal surrogate, if any, files an  
 941 action for relief under this Code section, exercises a right to a hearing under this article, or  
 942 makes an oral or written grievance against the ~~personal care home~~ licensed residential  
 943 living level 1 facility or its governing body, administrator, or employee to the ~~personal care~~  
 944 ~~home~~ licensed residential living level 1 facility, a state or community ombudsman, or a  
 945 state government official or employee.

946 (e) Code Section 31-5-8 shall apply fully to any willful violation of this article."

947 **SECTION 36.**

948 Said Code is further amended by revising Code Section 31-8-137, relating to temporary  
949 restraining order and injunctions, as follows:

950 "31-8-137.

951 A resident, the representative or legal surrogate of the resident, if any, or the Attorney  
952 General may bring an action in a court of competent jurisdiction for a temporary restraining  
953 order, preliminary injunction, or permanent injunction to enjoin a ~~personal care home~~  
954 licensed residential living level 1 facility from violating the rights of a resident."

955 **SECTION 37.**

956 Said Code is further amended by revising Code Section 31-8-138, relating to failure to  
957 validly license as defense, as follows:

958 "31-8-138.

959 The failure of the governing body to obtain or maintain a valid license to operate a ~~personal~~  
960 ~~care home~~ licensed residential living level 1 facility shall not constitute a defense to any  
961 action brought pursuant to this article where the facility at issue is subject to licensure as  
962 a ~~personal care home~~ licensed residential living level 1 facility."

963 **SECTION 38.**

964 Said Code is further amended by revising Code Section 31-8-139, relating to mandamus, as  
965 follows:

966 "31-8-139.

967 A resident, the representative or legal surrogate of the resident, if any, the community  
968 ombudsman, the governing body of the ~~personal care home~~ licensed residential living level  
969 1 facility, or any other interested party may bring an action in court for mandamus pursuant  
970 to Article 2 of Chapter 6 of Title 9 to order the department to comply with any state or  
971 federal law relevant to the operation of a ~~personal care home~~ licensed residential living  
972 level 1 facility or the care of its residents."

973 **SECTION 39.**

974 Said Code is further amended by revising Code Section 31-8-181, relating to individuals and  
975 hospitals excluded from application of article, as follows:

976 "31-8-181.

977 This article shall not apply to the following:

978 (1) An individual licensed to practice medicine under the provisions of Chapter 34 of  
 979 Title 43, and persons employed by such an individual, provided that any nursing home,  
 980 ~~personal care home~~ licensed residential living level 1 facility as defined by Code Section  
 981 31-6-2, hospice as defined by Code Section 31-7-172, respite care service as defined by  
 982 Code Section 49-6-72, adult day program, or home health agency owned, operated,  
 983 managed, or controlled by a person licensed to practice medicine under the provisions of  
 984 Chapter 34 of Title 43 shall be subject to the provisions of this article; or

985 (2) A hospital. However, to the extent that a hospital's nursing home, ~~personal care~~  
 986 ~~home~~ licensed residential living level 1 facility as defined by Code Section 31-6-2,  
 987 hospice as defined by Code Section 31-7-172, respite care service as defined by Code  
 988 Section 49-6-72, adult day program, or home health agency holds itself out as providing  
 989 care, treatment, or therapeutic activities for persons with Alzheimer's disease or  
 990 Alzheimer's related dementia as part of a specialty unit, such nursing home, ~~personal care~~  
 991 ~~home~~ licensed residential living level 1 facility, hospice, respite care service, adult day  
 992 program, or home health agency shall be subject to the provisions of this article."

#### 993 SECTION 40.

994 Said Code is further amended in Code Section 31-36A-5, relating to certification by  
 995 physician, by revising paragraph (2) as follows:

996 "(2) It is the physician's belief that it is in the adult's best interest to be discharged from  
 997 a hospital, institution, medical center, or other health care institution providing health or  
 998 personal care for treatment of any type of physical or mental condition and to be  
 999 transferred to or admitted to an alternative facility or placement, including, but not  
 1000 limited to, nursing facilities, ~~assisted living communities, personal care homes~~ licensed  
 1001 residential living level 1 facilities, licensed residential living level 2 facilities,  
 1002 rehabilitation facilities, and home and community based programs."

#### 1003 SECTION 41.

1004 Said Code is further amended in Code Section 31-36A-7, relating to petition for order by  
 1005 health care facility, issuance, expiration, and limited authorization of order, effect on other  
 1006 laws, and immunity from liability or disciplinary action, by revising paragraph (2) of  
 1007 subsection (b) as follows:

1008 "(2) It is the physician's belief that it is in the adult's best interest to be admitted to or  
 1009 discharged from a hospital, institution, medical center, or other health care institution  
 1010 providing health or personal care for treatment of any type of physical or mental  
 1011 condition or to be transferred to an alternative facility or placement, including, but not  
 1012 limited to, nursing facilities, ~~assisted living communities, personal care homes~~ licensed

1013 residential living level 1 facilities, licensed residential living level 2 facilities,  
 1014 rehabilitation facilities, and home and community based programs; and"

1015 **SECTION 42.**

1016 Said Code is further amended in Code Section 33-45-1, relating to definitions relative to  
 1017 continuing care providers and facilities, by revising paragraphs (1), (6), and (12) as follows:

1018 "(1) 'Continuing care' or 'care' means furnishing pursuant to an agreement lodging that  
 1019 is not in a skilled nursing facility as defined in paragraph (34) of Code Section 31-6-2,  
 1020 an intermediate care facility as defined in paragraph (22) of Code Section 31-6-2, or a  
 1021 ~~personal care home~~ licensed residential living level 1 facility as defined in Code Section  
 1022 31-7-12; food; and nursing care, whether such nursing care is provided in the facility or  
 1023 in another setting designated by the agreement for continuing care, to an individual not  
 1024 related by consanguinity or affinity to the provider furnishing such care upon payment  
 1025 of an entrance fee."

1026 "(6) 'Limited continuing care' means furnishing pursuant to an agreement lodging that  
 1027 is not in a skilled nursing facility as defined in paragraph (34) of Code Section 31-6-2,  
 1028 an intermediate care facility as defined in paragraph (22) of Code Section 31-6-2, or a  
 1029 ~~personal care home~~ licensed residential living level 1 facility as defined in Code Section  
 1030 31-7-12; food; and personal services, whether such personal services are provided in a  
 1031 facility such as a ~~personal care home~~ licensed residential living level 1 facility or in  
 1032 another setting designated by the continuing care agreement, to an individual not related  
 1033 by consanguinity or affinity to the provider furnishing such care upon payment of an  
 1034 entrance fee."

1035 "(12) 'Residential unit' means a residence or apartment in which a resident lives that is  
 1036 not a skilled nursing facility as defined in paragraph (34) of Code Section 31-6-2, an  
 1037 intermediate care facility as defined in paragraph (22) of Code Section 31-6-2, or a  
 1038 ~~personal care home~~ licensed residential living level 1 facility as defined in Code Section  
 1039 31-7-12."

1040 **SECTION 43.**

1041 Said Code is further amended in Code Section 35-3-34.1, relating to circumstances when  
 1042 exonerated first offender's criminal record may be disclosed, by revising paragraph (2) of  
 1043 subsection (a) as follows:

1044 "(2) The request for information is an inquiry about a person who has applied for  
 1045 employment with a nursing home, ~~assisted living community, personal care home,~~  
 1046 licensed residential living level 1 facility, licensed residential living level 2 facility, or a  
 1047 person or entity that offers day care for elderly persons and the person who is the subject

1048 of the inquiry to the center was prosecuted for the offense of sexual battery, incest,  
1049 pimping, pandering, or a violation of Code Section 30-5-8; or"

1050 **SECTION 44.**

1051 Said Code is further amended by revising Code Section 35-3-174, relating to time for  
1052 reporting elopement of disabled person from personal care home and assisted living  
1053 community, as follows:

1054 "35-3-174.

1055 The staff of ~~personal care homes and assisted living communities~~ licensed residential living  
1056 level 1 facilities and licensed residential living level 2 facilities shall call the local police  
1057 department to report the elopement of any disabled person from the ~~home facility~~ within  
1058 30 minutes of the staff's receiving actual knowledge that such person is missing from the  
1059 ~~home facility~~."

1060 **SECTION 45.**

1061 Said Code is further amended in Code Section 38-4-2, relating to powers and appointment  
1062 of executive directors of veterans' homes, by revising paragraph (4) of subsection (a) as  
1063 follows:

1064 "(4) To construct and operate hospitals, nursing homes, nursing care homes, ~~assisted living~~  
1065 ~~communities, and personal care homes~~ licensed residential living level 1 facilities, and  
1066 licensed residential living level 2 facilities, for the use and care of war veterans discharged  
1067 under other than dishonorable conditions and to pay the cost of construction of the  
1068 hospitals, nursing homes, nursing care homes, ~~assisted living communities, and personal~~  
1069 ~~care homes~~ licensed residential living level 1 facilities, and licensed residential living level  
1070 2 facilities. The term 'cost of the construction' as used in this paragraph shall embrace the  
1071 cost of construction; the cost of all lands, properties, rights, and easements acquired; the  
1072 cost of all machinery and equipment; and the cost of engineering, architectural, and legal  
1073 expenses and of plans and specifications and other expenses necessary or incident to  
1074 determining the feasibility or practicability of the construction of any hospitals, nursing  
1075 homes, nursing care homes, ~~assisted living communities, and personal care homes~~ licensed  
1076 residential living level 1 facilities, and licensed residential living level 2 facilities. The  
1077 term shall also include administrative expense and such other expenses as may be  
1078 necessary or incident to the construction of any hospitals, nursing homes, nursing care  
1079 homes, ~~assisted living communities, and personal care homes~~ licensed residential living  
1080 level 1 facilities, and licensed residential living level 2 facilities; the placing of the same  
1081 in operation; and the condemnation of property necessary for such construction and  
1082 operation."

1083 **SECTION 46.**

1084 Said Code is further amended in Code Section 42-8-63.1, relating to discharges disqualifying  
 1085 individuals from employment, by revising paragraph (3) of subsection (a) as follows:

1086 "(3) The employment is with a nursing home, ~~assisted living community, personal care~~  
 1087 ~~home,~~ licensed residential living level 1 facility, licensed residential living level 2  
 1088 facility, or a person or entity that offers day care for elderly persons and the defendant  
 1089 was discharged under this article after prosecution for the offense of sexual battery,  
 1090 incest, pimping, pandering, or a violation of Code Section 30-5-8; or"

1091 **SECTION 47.**

1092 Said Code is further amended in Code Section 48-13-9, relating to limitation on authority of  
 1093 local government to impose regulatory fee, examples of businesses or practitioners of  
 1094 professions or occupations which may be subject to fees, individuals and entities not subject  
 1095 to fees, and general laws not repealed, by revising paragraph (14) of subsection (b) as  
 1096 follows:

1097 "(14) Nursing homes, ~~assisted living communities, and personal care homes~~ licensed  
 1098 residential living level 1 facilities, and licensed residential living level 2 facilities;"

1099 **SECTION 48.**

1100 Said Code is further amended in Code Section 49-2-14, relating to record search for  
 1101 conviction data on prospective employees, by revising subsection (e) as follows:

1102 "(e) Notwithstanding the provisions of subsection (c) of this Code section, when a  
 1103 contractor to this department is a ~~personal care home~~ licensed residential living level 1  
 1104 facility, the provisions of Code Sections 31-7-250 through 31-7-264 shall apply."

1105 **SECTION 49.**

1106 Said Code is further amended in Code Section 49-4-193, relating to established drug testing,  
 1107 ineligibility for benefits based upon positive tests, drug treatment, impact of drug use by  
 1108 parents on children, confidentiality, and exceptions, by revising subsection (i) as follows:

1109 "(i) No testing shall be required by the provisions of this Code section for any person  
 1110 whom the department determines is significantly hindered, because of a physical or mental  
 1111 handicap or developmental disability, from doing so or for any person enrolled in an  
 1112 enhanced primary care case management program operated by the Department of  
 1113 Community Health, Division of Medical Assistance to serve frail elderly and disabled  
 1114 beneficiaries to improve the health outcomes of persons with chronic health conditions by  
 1115 linking primary medical care with home and community based services. In addition, no  
 1116 testing shall be required by the provisions of this Code section for any individuals receiving

1117 or on a waiting list for long-term services and supports through a non-Medicaid home and  
 1118 community based services program or for any individual residing in a facility such as a  
 1119 nursing home, ~~personal care home, assisted living community~~ licensed residential living  
 1120 level 1 facility, licensed residential living level 2 facility, intermediate care facility for the  
 1121 mentally retarded, community living arrangement, or host home."

1122 **SECTION 50.**

1123 Said Code is further amended in Code Section 51-1-29.5, relating to definitions, limitation  
 1124 on health care liability claim to gross negligence in emergency medical care, and factors for  
 1125 jury consideration, by revising paragraph (8) of subsection (a) as follows:

1126 "(8) 'Health care institution' means:

1127 (A) An ambulatory surgical center;

1128 (B) A ~~personal care home~~ licensed residential living level 1 facility licensed under  
 1129 Chapter 7 of Title 31;

1130 (B.1) ~~An assisted living community~~ A licensed residential living level 2 facility  
 1131 licensed under Chapter 7 of Title 31;

1132 (C) An institution providing emergency medical services;

1133 (D) A hospice;

1134 (E) A hospital;

1135 (F) A hospital system;

1136 (G) An intermediate care facility for the mentally retarded; or

1137 (H) A nursing home."

1138 **SECTION 51.**

1139 All laws and parts of laws in conflict with this Act are repealed.