

House Bill 342

By: Representatives Kelley of the 16th, Willard of the 51st, Ramsey of the 72nd, Benton of the 31st, Fleming of the 121st, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 31-7-3.2 of the Official Code of Georgia Annotated, relating to the
2 notice of cited deficiencies and imposition of sanctions for nursing homes or intermediate
3 care homes, so as to provide that a violation of certain regulations shall not constitute
4 negligence per se; to provide for limitations on advertisements that use or reference the
5 results of federal or state surveys or inspections of nursing homes; to provide for related
6 matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Code Section 31-7-3.2 of the Official Code of Georgia Annotated, relating to the notice of
10 cited deficiencies and imposition of sanctions for nursing homes or intermediate care homes,
11 is amended by adding new subsections to read as follows:

12 "(i) No violation of any regulation promulgated pursuant to the federal Nursing Home
13 Reform Act, 42 U.S.C. Sections 1396r and 1395i-3, or any regulation included in Ga.
14 Comp. R. & Regs. 111-8-50 or 111-8-56 or the successor to such regulations as they
15 existed on the effective date of this subsection, shall constitute negligence per se; provided,
16 however, that the court in any civil action shall take judicial notice of these regulations and
17 admit them into evidence. Nothing in this subsection shall abrogate any express cause of
18 action authorized under law or be construed to amend or repeal any provision of the 'Bill
19 of Rights for Residents of Long-term Care Facilities' in Article 5 of Chapter 8 of Title 31.

20 (j)(1) The results or findings of a federal or state survey or inspection of a nursing home
21 facility, including any statement of deficiencies or reports, shall not be used or referenced
22 in an advertisement or solicitation by any person or any entity, unless the advertisement
23 or solicitation includes all of the following:

24 (A) The date the survey was conducted;

25 (B) A statement that the Department of Community Health conducts a survey of all
26 nursing home facilities at least once every 15 months;

27 (C) If a finding or deficiency cited in the statement of deficiencies has been
28 substantially corrected, a statement that the finding or deficiency has been substantially
29 corrected and the date that the finding or deficiency was substantially corrected;

30 (D) The number of findings and deficiencies cited in the statement of deficiencies on
31 the basis of the survey and a disclosure of the severity level for each finding and
32 deficiency;

33 (E) The average number of findings and deficiencies cited in statements of deficiencies
34 on the basis of surveys conducted by the department during the same calendar year as
35 the survey used in the advertisement;

36 (F) A disclosure of whether each finding or deficiency caused actual bodily harm to
37 any residents and the number of residents harmed thereby; and

38 (G) A statement that the advertisement is neither authorized nor endorsed by any
39 government agency.

40 (2) In addition to any other remedies and damages allowed by law, a party found to have
41 violated paragraph (1) of this subsection shall be liable for attorney fees and costs
42 incurred in an action to restrain or enjoin such violation; provided, however, that
43 damages, attorney fees, and costs shall not be recoverable against any newspaper, news
44 outlet, or broadcaster publishing an advertisement or solicitation submitted by a third
45 party for a fee."

46 **SECTION 2.**

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