

Senate Bill 111

By: Senators Stone of the 23rd, Jeffares of the 17th, Jones of the 25th, Hufstetler of the 52nd, Kennedy of the 18th and others

AS PASSED

**A BILL TO BE ENTITLED
AN ACT**

To amend Chapter 45 of Title 33 of the Official Code of Georgia Annotated, relating to continuing care providers and facilities, so as to define certain terms; to provide for a provider to offer continuing care at home; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 45 of Title 33 of the Official Code of Georgia Annotated, relating to continuing care providers and facilities, is amended by revising Code Section 33-45-1, relating to definitions, as follows:

"33-45-1.

As used in this chapter, the term:

(1) 'Continuing care' means furnishing pursuant to a continuing care agreement:

(A) Lodging that is not:

(i) In a skilled nursing facility, as such term is defined in paragraph (34) of Code Section 31-6-2;

(ii) An intermediate care facility, as such term is defined in paragraph (22) of Code Section 31-6-2;

(iii) An assisted living community, as such term is defined in Code Section 31-7-12.2; or

(iv) A personal care home, as such term is defined in Code Section 31-7-12;

(B) Food; and

(C) Nursing care provided in a facility or in another setting designated by the agreement for continuing care to an individual not related by consanguinity or affinity to the provider furnishing such care upon payment of an entrance fee including skilled or intermediate nursing services and, at the discretion of the continuing care provider, personal care services including, without limitation, assisted living care services designated by the continuing care agreement, including such services being provided

pursuant to a contract to ensure the availability of such services to an individual not related by consanguinity or affinity to the provider furnishing such care upon payment of an entrance fee.

Such term shall not include continuing care at home.

(2) 'Continuing care agreement' means a contract or agreement to provide continuing care, continuing care at home, or limited continuing care. ~~Agreements to provide continuing care or limited continuing care~~ Continuing care agreements include agreements to provide care for any duration, including agreements that are terminable by either party.

(2.1) 'Continuing care at home' means the furnishing of services pursuant to a continuing care agreement at a location other than at a facility and which includes the obligation to provide nursing care, assisted living care, or personal care home services. A continuing care at home agreement may, but is not required to, include an obligation to provide food.

(3) 'Entrance fee' means an initial or deferred payment of a sum of money or property made as full or partial payment to assure the resident continuing care, limited continuing care, or continuing care upon the purchase of a resident owned living unit; provided, however, that any such initial or deferred payment which is greater than or equal to 12 times the monthly care fee shall be presumed to be an entrance fee so long as such payment is intended to be a full or partial payment to assure the resident lodging in a residential unit. An accommodation fee, admission fee, or other fee of similar form and application greater than or equal to 12 times the monthly care fee shall be considered to be an entrance fee. Such term shall not include any portion of the purchase or sale of a resident owned living unit.

(4) 'Facility' means a place which is owned or operated by a provider and provides continuing care or limited continuing care. Such term includes a facility which contains resident owned living units.

(5) 'Licensed' means that the provider has obtained a certificate of authority from the department.

(6) 'Limited continuing care' means furnishing pursuant to a continuing care agreement:

(A) Lodging that is not:

(i) In a skilled nursing facility, as such term is defined in paragraph (34) of Code Section 31-6-2;

(ii) An intermediate care facility, as such term is defined in paragraph (22) of Code Section 31-6-2;

(iii) An assisted living community, as such term is defined in Code Section 31-7-12.2; or

(iv) A personal care home, as such term is defined in Code Section 31-7-12;

(B) Food; and

(C) Personal services, whether such personal services are provided in a facility such as a personal care home or an assisted living community or in another setting designated by the continuing care agreement, to an individual not related by consanguinity or affinity to the provider furnishing such care upon payment of an entrance fee.

Such term shall not include continuing care at home.

(7) 'Monthly care fee' means the fee charged to a resident for continuing care or limited continuing care on a monthly or periodic basis. Monthly care fees may be increased by the provider to provide care to the resident as outlined in the continuing care agreement. Periodic fee payments or other prepayments shall not be monthly care fees.

(8) 'Nursing care' means services which are provided to residents of skilled nursing facilities or intermediate care facilities.

(9) 'Personal services' means, but is not limited to, such services as individual assistance with eating, bathing, grooming, dressing, ambulation, and housekeeping; supervision of self-administered medication; arrangement for or provision of social and leisure services; arrangement for appropriate medical, dental, nursing, or mental health services; and other similar services which the department may define. Personal services may be provided at a facility or at a home on or off site of a facility. Personal services shall not be construed to mean the provision of medical, nursing, dental, or mental health services. Personal services provided, if any, shall be designated in the continuing care agreement.

(10) 'Provider' means the owner or operator, whether a natural person, partnership, or other unincorporated association, however organized, trust, or corporation, of an institution, building, residence, or other place, whether operated for profit or not, which owner or operator undertakes to provide continuing care, ~~or~~ limited continuing care, or continuing care at home for a fixed or variable fee, or for any other remuneration of any type for the period of care, payable in a lump sum or lump sum and monthly maintenance charges or in installments.

(11) 'Resident' means a purchaser of or a nominee of or a subscriber to a continuing care agreement. Such an agreement may permit a resident to live at a home on or off site of a facility but shall not be construed to give the resident a part ownership of the facility in which the resident is to reside unless expressly provided for in the agreement.

(12) 'Resident owned living unit' means a residence or apartment, the purchase or sale of which is not included in an entrance fee, which is a component part of a facility and in which the resident has an individual real property ownership interest.

(13) 'Residential unit' means a residence or apartment in which a resident lives that is not a skilled nursing facility as defined in paragraph (34) of Code Section 31-6-2, an

intermediate care facility as defined in paragraph (22) of Code Section 31-6-2, an assisted living community as defined in Code Section 31-7-12.2, or a personal care home as defined in Code Section 31-7-12."

SECTION 2.

Said chapter is further amended in Code Section 33-45-3, relating to certificate of authority required for operation of continuing care facilities, by adding two new subsections to read as follows:

"(c) Nothing in this chapter shall be construed so as to allow private home care services to be provided by any person or entity other than a licensed private home care provider.

(d) A provider of continuing care at home may contract with a licensed home health agency to provide home health services to a resident. In order to provide home health services directly, a provider of continuing care at home shall obtain a certificate of need for a home health agency, as such term is defined in paragraph (20) of Code Section 31-6-2, pursuant to the same criteria and rules as are applicable to freestanding home health agencies that are not components of continuing care retirement communities."

SECTION 3.

Said chapter is further amended by revising Code Section 33-45-7.1, relating to provider authorized to offer continuing care when resident purchases resident owned living unit, as follows:

"33-45-7.1.

A provider which has obtained a certificate of authority pursuant to Code Section 33-45-5 and the written approval of the commissioner is authorized to offer, as a part of the continuing care agreement, continuing care at home or continuing care in which the resident purchases a resident owned living unit, subject to the provisions of Chapters 6 and 7 of Title 31 and rules and regulations promulgated by the Department of Community Health pursuant to such chapters relating to certificate of need and licensure requirements."

SECTION 4.

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