The following has special meaning:
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Act No. 403

House Bill 987 (AS PASSED HOUSE AND SENATE)

By: Representatives Cooper of the 43rd, LaHood of the 175th, Jones of the 47th, Petrea of the 166th, Efstration of the 104th, and others

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 5 of Title 30 and Title 31 of the Official Code of Georgia Annotated, relating to the "Disabled Adults and Elder Persons Protection Act" and health, respectively, so as to provide additional measures for the protection of elderly persons; to prohibit retaliation against a person relating to a report that a disabled adult or elder person is in need of protective services or has been the victim of abuse, neglect, or exploitation; to increase the maximum fines for violation by health care facilities; to provide for staffing, training, and financial stability requirements for certain personal care homes and assisted living communities; to provide for limited nursing services in assisted living communities; to provide for certification of memory care centers; to provide for definitions; to amend Title of the Official Code of Georgia Annotated, relating to professions and businesses, so as to provide for definitions; to rename the State Board of Nursing Home Administrators the State Board of Long-Term Care Facility Administrators; to require licensure of assisted living community administrators and certain personal care home administrators; to revise the composition of the board; to provide for the establishment of additional licensure criteria; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 5 of Title 30 of the Official Code of Georgia Annotated, relating to the "Disabled Adults and Elder Persons Protection Act," is amended by adding a new Code section to read as follows:

"30-5-4.1.

No person shall discriminate or retaliate in any manner against:

(1) Any person who makes a report pursuant to this chapter, who testifies in any judicial proceeding arising from the report, who provides protective services, who participates in an investigation, or who participates on an Adult Abuse, Neglect, and Exploitation Multidisciplinary Team under the provisions of this chapter; or

(2) Any disabled adult or elder person who is the subject of a report."

SECTION 2.

Title 31 of the Official Code of Georgia Annotated, relating to health, is amended in Code Section 31-2-4, relating to the Department of Community Health's powers, duties, functions, and responsibilities, by revising paragraphs (9) and (10) of subsection (d), as follows:

"(9) Shall establish, by rule adopted pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' a schedule of fees for licensure activities for institutions and other health care related entities required to be licensed, permitted, registered, certificated, or commissioned by the department pursuant to Chapter 7, 13, 23, or 44 of this title, Chapter 5 of Title 26, paragraph (8) of this subsection, or Article 7 of Chapter 6 of Title 49. Such schedules shall be determined in a manner so as to help defray the costs incurred by the department, but in no event to exceed such costs, both direct and indirect, in providing such licensure activities. Such fees may be annually adjusted by the department but shall not be increased by more than the annual rate of inflation as measured by the Consumer Price Index, as reported by the Bureau of Labor Statistics of the United States Department of Labor. All fees paid thereunder shall be paid into the general funds of the State of Georgia. It is the intent of the General Assembly that the proceeds from all fees imposed pursuant to this paragraph be used to support and improve the quality of licensing services provided by the department;

(10)(A) May accept the certification or accreditation of an entity or program by a certification or accreditation body, in accordance with specific standards, as evidence of compliance by the entity or program with the substantially equivalent departmental requirements for issuance or renewal of a permit or provisional permit, provided that such certification or accreditation is established prior to the issuance or renewal of such permits. The department may not require an additional departmental inspection of any entity or program whose certification or accreditation has been accepted by the department, except to the extent that such specific standards are less rigorous or less comprehensive than departmental requirements. Nothing in this Code section shall prohibit either departmental inspections for violations of such standards or requirements or the revocation of or refusal to issue or renew permits, as authorized by applicable law, or for violation of any other applicable law or regulation pursuant thereto.

(B) For purposes of this paragraph, the term:

(i) 'Entity or program' means an agency, center, facility, institution, community living arrangement, drug abuse treatment and education program, or entity subject to regulation by the department under Chapters 7, 13, 22, 23, and 44 of this title; Chapter 5 of Title 26; paragraph (8) of this subsection; and Article 7 of Chapter 6 of Title 49.

(ii) 'Permit' means any license, permit, registration, certificate, or commission issued by the department pursuant to the provisions of the law cited in division (i) of this subparagraph;"

SECTION 3.

Said title is further amended in Code Section 31-2-8, relating to actions by the Department of Community Health against certain applicants or licensees, by revising paragraph (6) of subsection (c) and subsection (e) as follows:

"(6)(A) Except as otherwise provided in subparagraph (B) of this paragraph, impose ~~Impose~~ a fine~~, not to exceed a total of $25,000.00,~~ of up to ~~$1,000.00~~ $2,000.00 per day for each violation of a law, rule, regulation, or formal order related to the initial or ongoing licensing of any agency, facility, institution, or entity, up to a total of $40,000.00;

(B) Impose a mandatory fine of no less than $5,000.00 for a violation of a law, rule, regulation, or formal order related to the initial or ongoing licensing of long-term care facility which has caused the death of or serious physical harm to a resident in such facility. For purposes of this subparagraph, the term 'serious physical harm' means an injury which causes any significant impairment of the physical condition of the resident as determined by qualified medical personnel;

(C) No ~~except that no~~ fine may be imposed pursuant to this paragraph against any nursing facility, nursing home, or intermediate care facility which is subject to intermediate sanctions under the provisions of 42 U.S.C. Section 1396r(h)(2)(A), as amended, whether or not those sanctions are actually imposed; or"

"(e) The department may deny a license or otherwise restrict a license for any applicant who has had a license denied, revoked, or suspended within one year of the date of an application or who has transferred ownership or governing authority of an agency, facility, institution, or entity subject to regulation by the department within one year of the date of a new application when such transfer was made in order to avert denial, revocation, or suspension of a license or to avert the payment of fines assessed by the department pursuant to this Code section."

SECTION 4.

Said title is further amended in Code Section 31-7-3.2, relating to notice of cited deficiency and imposition of sanction, by revising subsection (a) as follows:

"(a) A personal care home, assisted living community, nursing home, or intermediate care home licensed under this article shall give notice in the event that such facility has been cited by the department for any deficiency for which the facility has received notice of the imposition of any sanction available under federal or state laws or regulations, except where a plan of correction is the only sanction to be imposed."

SECTION 5.

Said title is further amended in Code Section 31-7-12, relating to the licensure and regulation of personal care homes, as follows:

"31-7-12.

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

(1) 'Direct care staff person' means any employee, facility volunteer, or contract staff who provides to residents:

(A) Any personal services, including but not limited to, medication administration or assistance, assistance with ambulation and transfer, and essential activities of daily living such as eating, bathing, grooming, dressing, and toileting; or

(B) Any other limited nursing services, as defined in subsection (b) of Code Section 31-7-12.2.

~~(1)~~ (2) 'Personal care home' means any dwelling, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food service, and one or more personal services for two or more adults who are not related to the owner or administrator by blood or marriage. This term shall not include host homes, as defined in paragraph (18) of subsection (b) of Code Section 37-1-20.

~~(2)~~ (3) 'Personal services' includes, but is not limited to, individual assistance with or supervision of self-administered medication and essential activities of daily living such as eating, bathing, grooming, dressing, and toileting. Personal services shall not include medical,

nursing, or health services; provided, however, that the department shall be authorized to grant a waiver of this provision in the same manner as provided for in Code Section 31-7-12.3 for the waiver of rules and regulations and in the same manner and only to the same extent as granted on or before June 30, 2011.

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

(c) Upon the designation by the department and with the consent of county boards of health, such boards may act as agents to the department in performing inspections and other authorized functions regarding personal care homes licensed under this chapter. With approval of the department, county boards of health may establish inspection fees to defray part of the costs of inspections performed for the department.

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

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

(f) On and after July 1, 2021, personal care homes with 25 or more beds shall be required to meet the following staffing and training requirements:

(1) Ensure that each direct care staff person receives initial and annual training covering topics specified by the department to ensure a demonstrated knowledge and understanding of caring for elderly and disabled adults; and

(2) Maintain an average monthly minimum on-site staffing ratio of one direct care staff person for every 15 residents during all waking hours and one direct care staff person for every 20 residents during all nonwaking hours; provided, however, that either such ratio is adequate to meet the needs of the residents.

(g) On and after July 1, 2021, personal care homes with 25 or more beds shall be required to meet the following financial stability requirements:

(1) Upon initial application for licensure, provide a financial stability affidavit to the department from a certified public accountant affirming the applicant's ability to operate as a going concern for the next two years;

(2) Provide a minimum of 60 days' written notice to the department and all residents of any impending bankruptcy or property eviction that may force discharge or relocation of residents or otherwise adversely impact the provision of safe care and oversight; and

(3) Provide a minimum of 14 days' written notice to the department and all residents of any impending change of ownership that may force discharge or relocation of residents or otherwise adversely impact the provision of safe care and oversight.

(h)(1) A personal care home with 25 or more beds which operates a memory care center in its facility may employ certified medication aides for the purpose of performing the technical aspects of the administration of certain medications in accordance with this subsection. Any such personal care home may utilize certified medication aides in its memory care center and anywhere in the same building in which the memory care center is located. A personal care home that employs one or more certified medication aides must have a safe medication and treatment administration system that meets all the requirements of this subsection.

(2) A personal care home may not employ an individual as a medication aide unless such individual is listed in the medication aide registry established by the department pursuant to paragraph (2) of subsection (g) of Code Section 31-7-12.2 in good standing. An applicant for certification as a medication aide shall meet the qualifications contained in paragraph (3) of subsection (g) of Code Section 31-7-12.2.

(3) A personal care home shall annually conduct a comprehensive clinical skills competency review of each medication aide employed by the personal care home.

(4) A medication aide who meets the criteria established in this subsection shall be permitted to perform the following tasks in a personal care home in accordance with the written instructions of a physician:

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

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

(C) Administer medication via a metered dose inhaler;

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

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

(F) Assist residents in the supervision of self-administration of medication; and

(G) Administer liquid morphine to a resident of the personal care home who is the patient of a licensed hospice, pursuant to a hospice physician's written order that contains specific instructions for indication, dosage, frequency, and route of administration, provided that the licensed hospice consents to the use and administration of liquid morphine as described in this subparagraph. The medication aide shall observe and document the resident's need for all 'as needed' (PRN) liquid morphine in such resident's record and such indications of need may include verbalizations of pain, groaning, grimacing, or restlessness. The initial dose of any liquid morphine administered pursuant to this subparagraph shall be administered and assessed by a licensed hospice health care professional to observe and address any adverse reactions to such medication. The personal care home shall ensure that any medication aides who will be administering liquid morphine to any hospice patients in such personal care home pursuant to this subparagraph receive adequate training from a licensed hospice on the safe and proper administration of liquid morphine prior to such administration and on an annual basis thereafter. The personal care home shall maintain documentation of all training provided and shall adhere to all security and storage requirements for liquid morphine required under state and federal law, including but not limited to, any rules promulgated by the department. Notwithstanding the foregoing, the supply of liquid morphine on-site at the personal care home shall be limited to no more than 50 ml for each hospice patient in the personal care home and shall only be administered under limited circumstances when a licensed hospice health care professional is not otherwise available. The department shall promulgate rules and regulations to implement this subparagraph.

(5) A medication aide shall record in the medication administration record all medications that such medication aide has personally administered to a resident of a personal care home and any refusal of a resident to take a medication. A medication aide shall observe a resident to whom medication has been administered and shall report any changes in the condition of such resident to the personal representative or legal surrogate of such resident.

(6) All medication administered by a medication aide in accordance with this subsection shall be in unit or multidose packaging.

(7) A personal care home that employs one or more medication aides to administer medications in accordance with this subsection shall secure the services of a licensed pharmacist to perform the following duties:

(A) Perform a quarterly review of the drug regimen of each resident of the personal care home and report any irregularities to the personal care home administrator;

(B) Remove for proper disposal any drugs that are expired, discontinued, in a deteriorated condition, or when the resident for whom such drugs were ordered is no longer a resident;

(C) Establish or review policies and procedures for safe and effective drug therapy, distribution, use, and control; and

(D) Monitor compliance with established policies and procedures for medication handling and storage.

(8) A personal care home that employs one or more medication aides to administer medications in accordance with this subsection shall ensure that each medication aide receives ongoing medication training as prescribed by the department. A registered professional nurse or licensed pharmacist shall conduct random medication administration observations on a quarterly basis and report any issues to the personal care home administrator."

SECTION 6.

Said title is further amended in Code Section 31-7-12.2, relating to regulation and licensing of assisted living communities, by revising subsections (b) and (f) and by adding new subsections to read as follows:

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

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

(2) 'Assisted living care' includes:

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

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

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

(D) The provision of limited nursing services.

(3) 'Assisted living community' means a personal care home with a minimum of 25 beds that is licensed as an assisted living community pursuant to Code Section 31-7-3.

(4) 'Assisted self-preservation' means the capacity of a resident to be evacuated from an assisted living community, to a designated point of safety and within an established period of time as determined by the ~~Office~~ office of ~~the~~ Safety Fire Commissioner. Assisted self-preservation is a function of all of the following:

(A) The condition of the individual;

(B) The assistance that is available to be provided to the individual by the staff of the assisted living community; and

(C) The construction of the building in which the assisted living community is housed, including whether such building meets the state fire safety requirements applicable to an existing health care occupancy.

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

(6) 'Direct care staff person' means any employee, facility volunteer, or contract staff who provides to residents:

(A) Any personal services, including but not limited to, medication administration or assistance, assistance with ambulation and transfer, and essential activities of daily living such as eating, bathing, grooming, dressing, and toileting; or

(B) Any other limited nursing services.

(7) 'Limited nursing services' means the assessment of the physical, mental, and emotional status to determine the appropriate level of care for an individual; the performance of health maintenance activities, as defined in division (a)(9)(C)(ii) of Code Section 43-26-12; and the provision of any nursing care within the direct care staff person's scope of practice that can be completed within seven days or intermittently."

"(f) An assisted living community shall not admit or retain an individual who is in need of continuous medical or nursing care. Other than as permitted by a medication aide pursuant to paragraph (7) of subsection (g) of this Code section or for limited nursing services provided by a registered professional nurse or licensed practical nurse pursuant to subparagraph (b)(2)(D) of this Code section, medical, nursing, or health services required on a periodic basis, or for short-term illness, shall not be provided as services of an assisted living community. When such services are required, they shall be purchased by the resident or the resident's representative or legal surrogate, if any, from appropriate providers managed independently from the assisted living community. An assisted living community may assist in arranging for such services, but not in the provision of such services."

"(j) On and after July 1, 2021, all assisted living communities shall be required to meet the following staffing and training requirements:

(1) Ensure that each direct care staff person in the assisted living community receives initial and annual training covering topics specified by the department to ensure a demonstrated knowledge and understanding of caring for elderly and disabled adults; and

(2) Maintain the following minimum staffing requirements:

(A) An average monthly minimum on-site staffing ratio of one direct care staff person for every 15 residents during all waking hours and one direct care staff person for every residents during all nonwaking hours; provided, however, that either such ratio is adequate to meet the needs of the residents;

(B) At least two on-site direct care staff persons at all times; and

(C) A registered professional nurse or licensed practical nurse on-site, as follows:

(i) For assisted living communities with one to 30 residents, a minimum of eight hours per week;

(ii) For assisted living communities with 31 to 60 residents, a minimum of 16 hours per week;

(iii) For assisted living communities with 61 to 90 residents, a minimum of 24 hours per week; or

(iv) For assisted living communities with more than 90 residents, a minimum of 40 hours per week.

(k) On and after July 1, 2021, all assisted living communities shall be required to meet the following financial stability requirements:

(1) Upon initial application for an assisted living community license, provide a financial stability affidavit from a certified public accountant affirming the applicant's ability to operate as a going concern for the next two years;

(2) Provide a minimum of 60 days' written notice to the department and all residents of any impending bankruptcy or property eviction that may force discharge or relocation of residents or otherwise adversely impact the provision of safe care and oversight; and

(3) Provide a minimum of 14 days' written notice to the department and all residents of any impending change of ownership that may force discharge or relocation of residents or otherwise adversely impact the provision of safe care and oversight."

SECTION 7.

Said title is further amended in Code Section 31-7-12.3, relating to adoption of rules and regulations to implement Code Sections 31-7-12 and 31-7-12.2, as follows:

"31-7-12.3.

The department shall adopt rules and regulations to implement Code Sections 31-7-12 and 31-7-12.2. ~~Such~~ Notwithstanding the provision of limited nursing services by assisted living communities, such rules and regulations shall establish meaningful distinctions between the levels of care provided by personal care homes, assisted living communities, and nursing homes but shall not curtail the scope or levels of services provided by personal care homes or nursing homes as of June 30, 2011; provided, however, that nothing in this chapter shall preclude the department from issuing waivers or variances to personal care homes of the rules and regulations established pursuant to this Code section. Notwithstanding Code Section 31-7-12.2, the department shall not grant a waiver or variance unless:

(1) There are adequate standards affording protection for the health and safety of residents of the personal care home;

(2) The resident of the personal care home provides a medical assessment conducted by a licensed health care professional who is unaffiliated with the personal care home which identifies the needs of the resident; and

(3) The department finds that the personal care home can provide or arrange for the appropriate level of care for the resident."

SECTION 8.

Said title is further amended in Article 1 of Chapter 7, relating to regulation of hospitals and related institutions, by adding new Code sections to read as follows:

"31-7-12.4.

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

(1) 'Alzheimer's' means having characteristics of Alzheimer's disease, a progressive and degenerative brain disease that causes impairment or change in memory, thinking, or behavior.

(2) 'Assisted living community' means a facility licensed pursuant to Code Section 31-7-12.2.

(3) 'Certificate' means a certificate issued by the department pursuant to this Code section to operate a memory care center.

(4) 'Dementia' means any disease from a class of degenerative brain disorders that cause impairment or changes in memory, thinking, or behavior that are progressive and irreversible. Such diseases include, but are not limited to, Alzheimer's disease, Lewy body dementia, frontotemporal dementia, and vascular dementia.

(5) 'Direct care staff person' means any employee, facility volunteer, or contract staff who provides to residents:

(A) Any personal services, including but not limited to, medication administration or assistance, assistance with ambulation and transfer, and essential activities of daily living such as eating, bathing, grooming, dressing, and toileting; or

(B) Any other limited nursing services, as defined in subsection (b) of Code Section 31-7-12.2.

(6) 'Memory care center' means a freestanding or incorporated specialized unit within an assisted living community or personal care home that either:

(A) Holds itself out as providing additional or specialized care to persons with diagnoses of probable Alzheimer's or other dementias or with cognitive deficits that may place the resident at risk; or

(B) Charges higher rates for care for residents with Alzheimer's or other dementias than for care to other residents.

(7) 'Personal care home' means a facility licensed pursuant to Code Section 31-7-12.

(b) On and after July 1, 2021, no assisted living community or personal care home shall operate a memory care center without first obtaining a certificate from the department. A certificate issued pursuant to this Code section shall not be assignable or transferable. In order to receive a certificate from the department to operate a memory care center, an applicant shall meet and be subject to the requirements contained in this Code section and in rules and regulations established by the department.

(c)(1) A memory care center shall meet the following minimum staffing requirements:

(A) One dementia trained direct care staff person for every 12 residents on-site during all waking hours and for every 15 residents on-site during all nonwaking hours based on a monthly average; provided, however, that such ratio is adequate to meet the needs of the residents;

(B) One registered professional nurse, licensed practical nurse, or certified medication aide on-site at all times;

(C) Two direct care staff persons on-site at all times; and

(D) One registered professional nurse or licensed practical nurse on-site or available in the building at all times as follows:

(i) For memory care centers with one to 12 residents, a minimum of eight hours per week;

(ii) For memory care centers with 13 to 30 residents, a minimum of 16 hours per week;

(iii) For memory care centers with 31 to 40 residents, a minimum of 24 hours per week; or

(iv) For memory care centers with more than 40 residents, a minimum of 40 hours per week.

(2) A memory care center shall meet the following training requirements:

(A) All staff, regardless of role, shall receive at least four hours of dementia-specific orientation within the first 30 days of working in the center. Such orientation shall include:

(i) Basic information about the nature, progression, and management of Alzheimer's and other dementias;

(ii) Techniques for creating an environment that minimizes challenging behavior from residents with Alzheimer's and other dementias;

(iii) Methods of identifying and minimizing safety risks to residents with Alzheimer's and other dementias; and

(iv) Techniques for successful communication with individuals with Alzheimer's and other dementias;

(B) All direct care staff personnel shall receive initial orientation training within the first 30 days of caring for residents independently that, at a minimum, includes:

(i) General training, to include:

(I) Development, updating, and implementation of comprehensive and individual service plans;

(II) Skills for recognizing physical or cognitive changes in the resident that warrant seeking medical attention;

(III) Residents' rights and identification of conduct constituting abuse, neglect, or exploitation;

(IV) General infection control principles;

(V) Emergency preparedness training;

(VI) Emergency first aid; and

(VII) Cardiopulmonary resuscitation; and

(ii) Specialized training in dementia care, to include:

(I) The nature of Alzheimer's and other dementias;

(II) The center's philosophy related to the care of residents with Alzheimer's and other dementias;

(III) The center's policies and procedures related to care of residents with Alzheimer's and other dementias;

(IV) Common behavior problems characteristic of residents with Alzheimer's and other dementias;

(V) Positive therapeutic interventions and activities;

(VI) Skills for maintaining the safety of the resident; and

(VII) The role of the family in caring for residents with Alzheimer's and other dementias;

(C) Direct care staff personnel shall complete a minimum of 16 hours of specialized training in dementia care within the first 30 days of working independently with residents with Alzheimer's or other dementias, and a minimum of eight hours of such specialized training in dementia care annually thereafter; and

(D) The memory care center shall maintain documentation reflecting course content, instructor qualifications, agenda, and attendance rosters for all training sessions provided.

(d) The department shall establish such other requirements as deemed necessary to protect the well-being of residents with Alzheimer's and other dementias, which shall include, but shall not be limited to, requirements relating to:

(1) Admission policies and procedures, assessment of residents, and development of written care plans;

(2) Physical design, environment, and safety measures to accommodate and protect residents; and

(3) Measures and protocols to address and prevent the elopement of residents, including appropriate safety devices and maintaining current photographs of residents.

(e) The department shall promulgate rules and regulations to implement the provisions of this Code section.

(f) In accordance with subsection (b) of Code Section 31-2-7, the department upon application or petition may, in its discretion, grant variances and waivers of the rules and regulations applicable to memory care centers.

31-7-12.5.

(a) As used in this Code section, the term 'COVID-19' means coronavirus disease 2019.

(b) Each personal care home with 25 or more beds, each assisted living community, and each nursing home licensed in this state shall:

(1) Inform its residents and their representatives or legal surrogates by 5:00 P.M. the next calendar day following the occurrence of either a single confirmed infection of COVID-19 or another airborne infectious disease identified by the department or the federal Centers for Disease Control and Prevention as a threat to public health, or three or more residents or staff with new-onset of respiratory symptoms occurring within 72 hours of each other. Such information shall:

(A) Not include personally identifiable information;

(B) Include information on mitigating actions implemented to prevent or reduce the risk of transmission, including if normal operations of the facility will be altered; and

(C) Include any cumulative updates for residents and their representatives or legal surrogates at least weekly or by 5:00 P.M. the next calendar day following the occurrence of any subsequent confirmed infection of COVID-19, or whenever three or more residents or staff with new onset of respiratory symptoms occurs within 72 hours of each other;

(2) Maintain a minimum of a seven-day supply of protective masks, surgical gowns, eye protection, and gloves sufficient to protect all residents and staff;

(3) Maintain and publish for its residents and their representatives or legal surrogates policies and procedures pertaining to infection control and mitigation within their facilities and update such policies and procedures annually; and

(4) As part of the facility's disaster preparedness plan required pursuant to subsection (c) of Code Section 31-7-3 and department rules and regulations, include an epidemic and pandemic plan for influenza and other infectious diseases which conforms to department and federal Centers for Disease Control and Prevention standards that contains the following minimum elements:

(A) Protocols for surveillance and detection of epidemic and pandemic diseases in residents and staff;

(B) A communication plan for sharing information with public health authorities, residents, residents' representatives or their legal surrogates, and staff;

(C) An education and training plan for residents and staff regarding infection control protocols;

(D) An infection control plan that addresses visitation, cohorting measures, sick leave and return-to-work policies, and testing and immunization policies; and

(E) A surge capacity plan that addresses protocols for contingency staffing and supply shortages.

31-7-12.6.

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

(1) 'Direct care staff person' means any employee, facility volunteer, or contract staff who provides to residents:

(A) Any personal services, including but not limited to, medication administration or assistance, assistance with ambulation and transfer, and essential activities of daily living such as eating, bathing, grooming, dressing, and toileting; or

(B) Any other limited nursing services, as defined in subsection (b) of Code Section 31-7-12.2.

(2) 'Long-term care facility' means a personal care home with 25 or more beds, an assisted living community, or a nursing home licensed in this state.

(b) No later than 90 days after the effective date of this Act each resident and direct care staff person in a long-term care facility in this state shall be required to receive an initial baseline molecular SARS CoV-2 test as outlined by the federal Centers for Disease Control and Prevention; provided, however, that residents and direct care staff persons tested prior to the effective date of this Act shall not be required to receive such test.

(c) The department shall be authorized to establish rules and regulations to require testing of new residents and direct care staff persons on and after 90 days after the effective date of this Act."

SECTION 9.

Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses, is amended by revising Chapter 27, relating to nursing home administrators, as follows:

"43-27-1.

As used in this chapter, the term:

(1) 'Administrator' means a person who operates, manages, supervises, or is in charge of a long-term care facility.

(2) 'Assisted living community' means a facility licensed pursuant to Code Section 31-7-12.2.

(3) 'Assisted living community administrator' means a person who operates, manages, supervises, or is in charge of an assisted living community.

~~(1)~~ (4) 'Board' means the State Board of ~~Nursing Home~~ Long-Term Care Facility Administrators.

(5) 'Long-term care facility' means a personal care home, an assisted living community, or a nursing home.

~~(2)~~ (6) 'Nursing home' has the same meaning as prescribed by the Department of Community Health in the rules and regulations for nursing homes.

~~(3)~~ (7) 'Nursing home administrator' means a person who operates, manages, ~~or~~ supervises or is in charge of a nursing home.

(8) 'Personal care home' means a facility licensed pursuant to Code Section 31-7-12 which has 25 or more beds.

(9) 'Personal care home administrator' means a person who operates, manages, supervises, or is in charge of a personal care home.

43-27-2.

(a) There is created the State Board of ~~Nursing Home~~ Long-Term Care Facility Administrators, which, on and after the effective date of this Act, shall consist of ~~13~~ nine members~~, none of whom may be employees of the United States government or of this state, and the commissioner of human services or his or her designee, who shall serve as ex officio member of the board, and the commissioner of community health or his or her designee, who shall serve as ex officio member of the board~~. The members of the board shall be appointed by the Governor and confirmed by the Senate, as follows:

(1) Three members who are nursing home administrators in this state, at least one of whom shall represent nonproprietary nursing homes;

(2) Three members each of whom are either a personal care home administrator or an assisted living community administrator; provided, however, that on and after July 1, 2021, all successor members appointed pursuant to this paragraph shall be either a licensed personal care home administrator or a licensed assisted living community administrator;

(3) Two members of the public at large who are not personal care home administrators, assisted living community administrators, or nursing home administrators or pecuniarily interested in any personal care home, assisted living community, or nursing home, or have any connection with the personal care home, assisted living community, or nursing home industry whatsoever; and

(4) One member who is a health care professional with at least a bachelor's degree, experience in elder care, and knowledge in dementia care and who is not a personal care home administrator, an assisted living community administrator, or a nursing home administrator or pecuniarily interested in any personal care home, assisted living community, or nursing home, or has any connection with the personal care home, assisted living community, or nursing home industry whatsoever; and

~~(1) One member who is a licensed medical doctor in this state and who is not a nursing home administrator or pecuniarily interested in any nursing home;~~

~~(2) One member who is a registered nurse in this state and who is not a nursing home administrator or pecuniarily interested in any nursing home;~~

~~(3) One member who is an educator with a graduate degree and specializing in the field of gerontology and who is not a nursing home administrator or pecuniarily interested in any nursing home;~~

~~(4) Three members of the public at large who are not nursing home administrators or pecuniarily interested in any nursing home or have any connection with the nursing home industry whatsoever. Two of these three public, at-large positions shall be appointed from a list of three persons for each of these two positions submitted by the Board of Community Health. The Governor is vested with complete discretion in appointing the third member for one of these three public, at-large positions;~~

~~(5) One member who is a hospital administrator in this state, who is the holder of a master's degree in hospital administration, and who is not a nursing home administrator or pecuniarily interested in any nursing home; and~~

~~(6) Six members, at least one of whom shall represent nonproprietary nursing homes, who are licensed nursing home administrators in this state.~~

(b) The term for all members shall be three years from the date of appointment. A member may be removed as provided in Code Section 43-1-17, including removal for failing to attend three meetings in one calendar year. All vacancies shall be filled by the Governor for the unexpired terms in accordance with the requirements for appointment to the vacant position.

43-27-3.

The board shall elect a chairman and vice-chairman from its membership and such other officers as it shall deem necessary and shall adopt rules and regulations to govern its proceedings. Each member of the board shall be reimbursed as provided for in subsection (f) of Code Section 43-1-2. The division director shall be the executive secretary of the board.

43-27-4.

The board shall have sole and exclusive authority to determine the qualifications, skill, and fitness of any person to serve as an administrator of a personal care home, an assisted living community, or a nursing home under this chapter; and the holder of a license under this chapter shall be deemed qualified to serve as the administrator of ~~a~~ such personal care home, assisted living community, or nursing home, as applicable.

43-27-5.

(a) The board shall have the following powers and duties:

(1) To issue, renew, and reinstate the licenses of duly qualified applicants for licensure;

(2) To deny, suspend, revoke, or otherwise sanction licenses to practice as ~~a nursing home~~ an administrator;

(3) To initiate investigations for the purpose of discovering violations of this chapter;

(4) To initiate investigations for the purpose of discovering violations by ~~a nursing home~~ an administrator of the rules, regulations, or statutes of the Department of Community Health or the Department of Human Services, provided that the board shall investigate those violations only after revocation, limitation, or restriction of participation of the ~~nursing home~~ long-term care facility of which such individual is the administrator in the medical assistance program, if applicable, or the license issued by the Department of Community Health and make written findings as to the causes of the alleged violations;

(5) To conduct hearings upon charges into alleged violations of this chapter;

(6) To prepare or approve all examinations for licensure as ~~a nursing home~~ an administrator;

(7) To develop, impose, and enforce standards which must be met by individuals in order to receive or maintain a license as a personal care home administrator, as an assisted living community administrator, and as a nursing home administrator;

(8) To conduct a continuing study and investigation of ~~nursing homes and administrators of nursing homes~~ long-term care facilities and administrators of such long-term care facilities within the state for the purpose of improving the standards imposed for the licensing of such administrators; and

(9) To adopt such rules and regulations as shall be reasonably necessary for the implementation and enforcement of this chapter. The board shall have the authority to establish, provide, or approve various education programs or courses for personal care home administrators, for assisted living community administrators, and for nursing home administrators and to prescribe rules and regulations requiring applicants for licenses as ~~nursing home~~ administrators to attend such programs or courses as a prerequisite to their being admitted to the examination or issued a license and requiring licensed ~~nursing home~~ administrators to attend such programs or courses as a prerequisite to their being issued any license renewal.

(b) Nothing in this chapter or in the rules and regulations adopted under this chapter shall be construed to require an applicant for a license as ~~a nursing home~~ an administrator who is certified by a recognized church or religious denomination which teaches reliance on spiritual means alone for healing as having been approved to administer institutions certified by such church or denomination for the care and treatment of the sick in accordance with its teachings to demonstrate proficiency in any medical techniques or to meet any medical educational qualifications or medical standards not in accord with the remedial care and treatment provided in such institutions.

43-27-6.

(a)(1) Prior to July 1, 2021, no ~~No~~ person shall serve as a nursing home administrator until first obtaining a license from the board.

(2) On and after July 1, 2021, no person shall serve as an administrator of a long-term care facility until first obtaining a license from the board; provided, however, that an individual hired as an administrator of a long-term care facility shall have 60 days from the date of hire to obtain such licensure.

(b) The board shall issue licenses as ~~nursing home~~ administrators only to persons who:

(1) Are at least 21 years of age;

(2) Are of reputable and responsible character;

~~(3) Reserved;~~

~~(4)~~ (3) Meet the standards and the criteria established by the board to evidence the applicant's qualifications by training and experience to operate a personal care home, an assisted living community, or a nursing home, provided that two years of experience working in a personal care home, an assisted living community, or a nursing home shall be equivalent to one year of any academic education and training requirements established by the board; and such experience may be substituted without limitation for such education and training requirements; and

~~(5)~~ (4) Satisfactorily pass a written or oral examination, or both, approved by the board to determine the applicable qualifications of the applicant to operate a personal care home, an assisted living community, or a nursing home.

43-27-7.

(a) The board, in its discretion and otherwise subject to this chapter and the rules and regulations of the board promulgated under this chapter prescribing the qualifications for a personal care home administrator license, an assisted living community administrator license, and a nursing home administrator license, may issue a license to a personal care home administrator, an assisted living community administrator, or a nursing home administrator who has been issued a license by the proper authorities of any state or issued a certificate of qualification by any national organization, upon payment of a fee to be fixed by the board and upon submission of evidence satisfactory to the board that such other state or national organization maintains a system and standard of qualifications and examinations for a personal care home administrator license, an assisted living community administrator license, or a nursing home administrator license or certificate which is substantially equivalent to those required in this state.

(b) An applicant for licensure who meets the qualifications of subsection (a) of this Code section may be issued a provisional license by the board to practice as a personal care home administrator, assisted living community administrator, or nursing home administrator which shall be valid until the results of any examination required by the board and for which the applicant is scheduled to take are released. An applicant who has been issued a provisional license will be scheduled by the board to take the first available examination. If

the applicant passes the examination, the provisional license shall be valid until the permanent license is issued. If the applicant fails to appear for the examination or if the applicant fails the examination, the provisional license shall become invalid immediately. The board may authorize the issuance of a second provisional license only to an applicant who provides just cause to the board as to why the applicant was unable to appear for the examination.

43-27-8.

Each person licensed as ~~a nursing home~~ an administrator shall be required to pay a biennial license fee in an amount to be fixed by the board. Such license shall expire on the renewal date established by the division director and shall be renewable for two years upon payment of the biennial license fee. No license fee shall be required of any superintendent of a state hospital or facility during such time as the superintendent is acting or serving in the capacity as a nursing home administrator in a state institution and as an employee of the state.

43-27-9.

The board may, for good cause shown and under such conditions as it may prescribe, restore a license to any person whose license has been suspended or revoked.

43-27-10.

No provision of this chapter shall be construed as prohibiting or preventing a municipality or county from fixing, charging, assessing, or collecting any license fee, registration fee, tax, or gross receipt tax on any profession covered by this chapter or upon any related profession or ~~any one~~ anyone engaged in any related profession governed by this chapter.

43-27-11.

(a) Any person who acts or serves in the capacity of a nursing home administrator without holding a license as a nursing home administrator issued in accordance with this chapter shall be guilty of a misdemeanor.

(b) Any person who knowingly acts or serves in the capacity of a personal care home administrator or assisted living community administrator without holding an appropriate license as such, issued in accordance with this chapter, shall be guilty of a misdemeanor.

~~(b)~~ (c) Any person not licensed under this chapter as a nursing home administrator who holds himself or herself out to be a licensed nursing home administrator or uses the initials N.H.A. after his or her name shall be guilty of a misdemeanor."

SECTION 10.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 11.

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

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