

House Bill 1427

By: Representatives Moore of the 90th, Beverly of the 143rd, Bennett of the 94th, Tankersley of the 160th, and Smith of the 70th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to
2 regulation and construction of hospitals and other health care facilities, so as to provide for
3 screening, training, and supervision of home health aides; to require certification in
4 cardiopulmonary resuscitation; to provide for backup home health aides; to require liability
5 insurance coverage; to provide for responsibility of a home health agency for negligence and
6 willful misconduct by home health aides; to provide that home health aides are subject to
7 criminal background checks; to provide for related matters; to provide for a short title; to
8 repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 This Act shall be known and may be cited as the "TLC Act."

12 **SECTION 2.**

13 Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to regulation and
14 construction of hospitals and other health care facilities, is amended by revising Code Section

15 31-7-153, relating to standards for patient care and agency operation, regulations as to
16 issuance, denial, suspension, or revocation of licenses, and hearings, as follows:

17 "31-7-153.

18 The department shall promulgate regulations which define standards for the care, treatment,
19 health, safety, welfare, and comfort of patients served by home health agencies and for the
20 maintenance and operation of home health agencies which will promote safe and adequate
21 care and treatment of the patients. These regulations shall be no less stringent than those
22 required for participation of home health agencies in the Title XVIII ~~medicare~~ Medicare
23 program and shall include, but not be limited to, a provision requiring the agency to have
24 policies established by a professional group which includes at least one physician and one
25 registered nurse and appropriate representation from other professional disciplines;
26 provisions governing the services the agency provides; provisions for the supervision of
27 services by a physician or registered nurse, as appropriate; ~~and~~ maintenance of clinical
28 records on all patients, including a plan of treatment prescribed by a physician; and
29 provisions for ensuring proper screening, training, and supervision of home health aides,
30 whether such aides are employees or independent contractors of the agency. The
31 department is authorized to issue, deny, suspend, or revoke licenses in accordance with
32 regulations promulgated pursuant to this Code section. Such regulations shall also include
33 hearing procedures related to denial, suspension, or revocation of licenses."

34 **SECTION 3.**

35 Said chapter is further amended by adding a new Code section to read as follows:

36 "31-7-158.1.

37 (a) All home health aides shall possess current certification in cardiopulmonary
38 resuscitation, whether such aides are employees or independent contractors of the home
39 health agency.

40 (b) A home health agency shall ensure that a backup home health aide is available at all
41 times to report for work at a patient's residence in the event that the originally scheduled
42 home health aide is unable to or fails to report for work at such patient's residence.

43 (c) A home health agency shall carry or be covered by liability insurance coverages for a
44 claim against the home health agency for acts of negligence or willful misconduct of its
45 home health aides.

46 (d) A home health agency shall be responsible for acts of negligence or willful misconduct
47 of a home health aide, whether such aide is an employee or independent contractor of such
48 agency, that result in property damage or personal injury to a patient."

49 **SECTION 4.**

50 Said chapter is further amended in Code Section 31-7-351, relating to definitions relative to
51 the "Georgia Long-term Care Background Check Program," by revising paragraph (7) as
52 follows:

53 "(7) 'Employee' means any individual who has direct access and who is hired by a facility
54 through employment, or through a contract with such facility, including, but not limited
55 to, housekeepers, maintenance personnel, dieticians, and any volunteer who has duties
56 that are equivalent to the duties of an employee providing such services. Such term shall
57 not include an individual who contracts with the facility, whether personally or through
58 a company, to provide utility, construction, communications, accounting, quality
59 assurance, human resource management, information technology, legal, or other services
60 if the contracted services are not directly related to providing services to a patient,
61 resident, or client of the facility. Such term shall include a home health aide employed
62 by or contracted with a home health agency. Such term shall not include any health care
63 provider, including, but not limited to, physicians, dentists, nurses, and pharmacists who
64 are licensed by the Georgia Composite Medical Board, the Georgia Board of Dentistry,
65 the Georgia Board of Nursing, or the State Board of Pharmacy."

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SECTION 5.

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