

House Bill 342 (AS PASSED HOUSE AND SENATE)

By: Representatives Kelley of the 16<sup>th</sup>, Willard of the 51<sup>st</sup>, Ramsey of the 72<sup>nd</sup>, Benton of the 31<sup>st</sup>, Fleming of the 121<sup>st</sup>, 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 provide for an effective date and applicability; to repeal conflicting laws; and for  
7 other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 style="text-align:center">**SECTION 1.**

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

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

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

- 26 (A) The date the survey was conducted;  
 27 (B) A statement that the Department of Community Health conducts a survey of all  
 28 nursing home facilities at least once every 15 months;  
 29 (C) If a finding or deficiency cited in the statement of deficiencies has been  
 30 substantially corrected, a statement that the finding or deficiency has been substantially  
 31 corrected and the date that the finding or deficiency was substantially corrected;  
 32 (D) The number of findings and deficiencies cited in the statement of deficiencies on  
 33 the basis of the survey and a disclosure of the severity level for each finding and  
 34 deficiency;  
 35 (E) The average number of findings and deficiencies cited in statements of deficiencies  
 36 on the basis of surveys conducted by the department during the same calendar year as  
 37 the survey used in the advertisement;  
 38 (F) A disclosure of whether each finding or deficiency caused actual bodily harm to  
 39 any residents and the number of residents harmed thereby; and  
 40 (G) A statement that the advertisement is neither authorized nor endorsed by any  
 41 government agency.
- 42 (2) In addition to any other remedies and damages allowed by law, a party found to have  
 43 violated paragraph (1) of this subsection shall be liable for attorney fees and expenses of  
 44 litigation incurred in an action to restrain or enjoin such violation; provided, however,  
 45 that damages, attorney fees, and expenses of litigation shall not be recoverable against  
 46 any newspaper, news outlet, or broadcaster publishing an advertisement or solicitation  
 47 submitted by a third party for a fee."

48 **SECTION 2.**

49 This Act shall become effective upon its approval by the Governor or upon its becoming law  
 50 without such approval and shall apply to all causes of actions arising on and after such date.

51 **SECTION 3.**

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