

O.C.G.A. § 31-7-4

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*** Current through the 2010 Regular Session ***

TITLE 31. HEALTH
CHAPTER 7. REGULATION AND CONSTRUCTION OF HOSPITALS AND OTHER HEALTH CARE
FACILITIES
ARTICLE 1. REGULATION OF HOSPITALS AND RELATED INSTITUTIONS

O.C.G.A. § **31-7-4** (2010)

§ **31-7-4**. Denial or revocation of permits

The department may refuse to grant a permit as provided for in Code Section 31-7-3 for the operation of any institution that does not fulfill the minimum requirements which the department may prescribe by rules and regulations, may revoke a permit which has been issued if an institution violates any of such rules and regulations, and may revoke a portion of a permit which has been issued as it relates to a specific clinical service if the quality standards established by the department pursuant to Code Section 31-7-2.1 for such clinical service are not met; provided, however, that before any order is entered refusing a permit applied for or revoking a permit previously granted, the applicant or permit holder, as the case may be, shall be afforded an opportunity for a hearing as provided for in Article 1 of Chapter 5 of this title. All appeals from such orders and all rights of enforcement by injunction shall be governed by Article 1 of Chapter 5 of this title.

HISTORY: Ga. L. 1946, p. 34, §§ 3, 4; Ga. L. 1958, p. 322, § 3; Code 1933, § 88-1906, enacted by Ga. L. 1964, p. 499, § 1; Ga. L. 2008, p. 12, § 2-11/SB 433.

O.C.G.A. § **31-7-5** (2010)

§ 31-7-5. Exemptions from permit requirements; application of this chapter to federally operated institutions

Code Section 31-7-3 shall not apply to the offices of physicians or others practicing the healing arts unless the facilities and services described in paragraph (4) of Code Section 31-7-1 are provided therein; nor shall this chapter apply to institutions operated exclusively by the federal government or by any of its agencies.

HISTORY: Ga. L. 1946, p. 34, § 6; Code 1933, § 88-1907, enacted by Ga. L. 1964, p. 499, § 1; Ga. L. 2008, p. 12, § 2-12/SB 433.

O.C.G.A. § 31-7-6 (2010)

§ 31-7-6. Provision of data for research purposes by organizations rendering patient care; liability of providers of data; use of data; confidentiality

(a) Any hospital, health care facility, medical or skilled nursing home, or other organization rendering patient care may provide information, interviews, reports, statements, memoranda, or other data relating to the condition and treatment of any person to research groups approved by the medical staff of the institution involved, to governmental health agencies, medical associations and societies, or to any in-hospital medical staff committee, to be used in the course of any study for the purpose of reducing rates of morbidity or mortality; and no liability of any kind or character for damages or other relief shall arise or be enforced against any person or organization by reason of having provided such information or material, or by reason of having released or published the findings and conclusions of such groups to advance medical research or medical education or to achieve the most effective use of health manpower and facilities, or by reason of having released or published generally a summary of such studies.

(b) The research groups approved by the medical staff of the institution involved, governmental health agencies, medical associations and societies, or any in-hospital medical staff committee shall use or publish material described in subsection (a) of this Code section only for the purpose of advancing medical research or medical education, or to achieve the most effective use of health manpower and facilities, in the interest of reducing rates of morbidity or mortality, except that a summary of such studies may be released by any such group for general publication.

(c) In all events the identity of any person whose condition or treatment has been studied pursuant to this Code section shall be confidential and shall not be revealed under any circumstances.

HISTORY: Code 1933, §§ 88-1908, 88-1909, 88-1910, enacted by Ga. L. 1966, p. 310, §§ 1-3.

O.C.G.A. § 31-7-7 (2010)

§ 31-7-7. Refusal or revocation by public hospital of staff privileges

(a) Whenever any licensed doctor of medicine, doctor of podiatric medicine, doctor of osteopathic medicine, or doctor of dentistry shall make application for permission to treat patients in any hospital owned or operated by the state, any political subdivision thereof, or any municipality, the hospital shall act in a nondiscriminatory manner upon such application expeditiously and without unnecessary delay considering the applicant on the basis of the applicant's demonstrated training, experience, competence, and availability and reasonable objectives, including, but not limited to, the appropriate utilization of hospital facilities; but in no event shall final action thereon be taken later than 90 days following receipt of the

application; provided, however, whenever the applicant is licensed by any governmental entity outside the continental limits of the United States, the hospital shall have 120 days to take action following receipt of the application. This subsection shall apply solely to applications by licensed doctors of medicine, doctors of podiatric medicine, doctors of osteopathic medicine, and doctors of dentistry who are not members of the staff of the hospital in which privileges are sought at the time an application is submitted and by those not privileged, at such time, to practice in such hospital under a previous grant of privileges. The provisions of this subsection shall not be construed so as to repeal the provisions of Code Section 31-7-15, to mandate hospitals to offer or provide any type of service or services not otherwise offered, or to prohibit a hospital with a clinical training program affiliated with a school of medicine from requiring an applicant to have a faculty teaching appointment as a condition of eligibility.

(b) Whenever any hospital owned or operated by the state, any political subdivision thereof, or any municipality shall refuse to grant a licensed doctor of medicine, doctor of podiatric medicine, doctor of osteopathic medicine, or doctor of dentistry the privilege of treating patients in the hospital, wholly or in part, or revoke the privilege of such licensed medical practitioner for treating patients in such hospital, wholly or in part, the hospital shall furnish to the licensed medical practitioner whose privilege has been refused or revoked, within ten days of such action, a written statement of the reasons therefor.

(c) The provisions of this Code section shall not be construed to mandate such hospital to grant or to prohibit such hospital from granting staff privileges to other licensed practitioners of the healing arts who are otherwise qualified for staff privileges pursuant to the bylaws of the governing body of the hospital and, in addition, shall not be construed to modify or restrict the rights of health service provider psychologists to be treated in a nondiscriminatory manner as provided in Code Sections 31-7-161 and 31-7-164.

HISTORY: Code 1933, § 88-1911, enacted by Ga. L. 1976, p. 326, § 1; Ga. L. 1978, p. 1969, § 1; Ga. L. 1984, p. 967, § 1; Ga. L. 1990, p. 561, § 1.

O.C.G.A. § **31-7-7.1** (2010)

§ 31-7-7.1. Denial of staff privileges based upon license, board certification, or membership in professional association

Notwithstanding the provisions of Code Section 31-7-7, if a hospital offers or provides a service which is within the scope of practice of a person licensed as a doctor of podiatric medicine, doctor of osteopathic medicine, or doctor of dentistry, that hospital may not deny to any such licensee staff privileges at such hospital based solely upon that person's license, board certification, or specialty membership in a professional association.

HISTORY: Code 1981, § 31-7-7.1, enacted by Ga. L. 1997, p. 911, § 1; Ga. L. 1998, p. 548, § 1.

O.C.G.A. § 31-7-8 (2010)

§ 31-7-8. Reports of disciplinary actions against persons authorized to practice professions under Chapter 11, 34, or 35 of Title 43

(a) The hospital administrator or chief executive officer of each institution subject to this chapter shall submit a written report to the appropriate licensing board when a person who is authorized to practice medicine, osteopathy, podiatry, or dentistry in this state under Chapter 34, Chapter 35, or Chapter 11, respectively, of Title 43 and who is a member of the medical staff at the institution, has medical staff privileges at the institution, or has applied for medical staff privileges at the institution has his medical staff privileges denied, restricted, or revoked for any reason involving the medical care given his patient. Each such administrator or officer shall also report to the appropriate licensing board resignations from practice in that institution by persons licensed under Chapter 34, Chapter 35, or Chapter 11 of Title 43. This Code section shall not require reports of temporary suspensions for failure to comply with medical record regulations.

(b) The written report required by subsection (a) of this Code section shall be made within 20 working days following final action by the institution on the restriction, denial, or revocation of medical staff privileges. The results of any legal appeal of such action shall be reported within 20 working days following a final court decision on such appeal.

(c) The report required by this Code section shall contain a statement detailing the nature of the restriction, denial, or revocation of medical staff privileges, the date such action was taken, and the reasons for such action. If the action is a voluntary resignation or restriction of medical staff privileges which was the result of action initiated by the institution, the report shall contain the circumstances involved therein.

(d) There shall be no civil or criminal liability on the part of, and no cause of action for damages shall arise against, any hospital administrator, chief executive officer, or other authorized person who in good faith complies with this Code section.

(e) Except as provided in this subsection and Chapter 34A of Title 43, information contained in any report made to the appropriate licensing board pursuant to this Code section shall be confidential and shall not be disclosed to the public. Access to such reports shall be limited to members of the appropriate licensing board or its staff for their use and to interested institutions for their use in the review of medical staff privileges at the institution.

(f) The failure of an institution to comply with this Code section shall be grounds for the denial, refusal to renew, or revocation of the permit for the operation of the institution issued pursuant to this chapter.

HISTORY: Code 1933, § 88-1912, enacted by Ga. L. 1977, p. 257, § 1; Ga. L. 1983, p. 882, § 1; Ga. L. 1990, p. 561, § 2; Ga. L. 2001, p. 192, § 1.

O.C.G.A. § 31-7-9 (2010)

§ 31-7-9. Reports by physicians and other personnel of nonaccidental injuries to patients; immunity from liability

(a) As used in this Code section, the term "medical facility" includes, without being limited to, an ambulatory surgical treatment center defined in subparagraph (C) of paragraph (4) of Code Section 31-7-1 and a freestanding imaging center defined in subparagraph (G) of paragraph (4) of Code Section 31-7-1.

(b) Any:

(1) Physician, including any doctor of medicine licensed to practice under the laws of this state;

(2) Licensed registered nurse employed by a medical facility;

(3) Security personnel employed by a medical facility; or

(4) Other personnel employed by a medical facility whose employment duties involve the care and treatment of patients therein

having cause to believe that a patient has had physical injury or injuries inflicted upon him other than by accidental means shall report or cause reports to be made in accordance with this Code section.

(c) An oral report shall be made immediately by telephone or otherwise and shall be followed by a report in writing, if requested, to the person in charge of the medical facility or his designated delegate. The person in charge of the medical facility or his designated delegate shall then notify the local law enforcement agency having primary jurisdiction in the area in which the medical facility is located of the contents of the report. The report shall contain the name and address of the patient, the nature and extent of the patient's injuries, and any other information that the reporting person believes might be helpful in establishing the cause of the injuries and the identity of the perpetrator.

(d) Any person or persons participating in the making of a report or causing a report to be made to the appropriate police authority pursuant to this Code section or participating in any judicial proceeding or any other proceeding resulting therefrom shall in so doing be immune from any civil liability that might otherwise be incurred or imposed, providing such participation pursuant to this Code section shall be in good faith.

HISTORY: Code 1933, § 88-1913, enacted by Ga. L. 1980, p. 1040, § 2; Ga. L. 1982, p. 1249, §§ 1, 2; Ga. L. 1985, p. 898, § 1; Ga. L. 2008, p. 12, § 2-13/SB 433.

O.C.G.A. § 31-7-10 (2010)

§ 31-7-10. Certification and approval of hospitals eligible to render service under a group nonprofit hospital insurance plan; supervision of such hospitals; withdrawal of approval

The department shall (1) certify and approve hospitals applying therefor which may be found to be eligible to render hospital service under any group nonprofit hospital insurance plan, which plan may be approved and become effective, and (2) supervise the services rendered by hospitals operating under such plan, with authority to withdraw approval from any hospital which subsequently may, under rules and regulations of the board, become ineligible for rendering such services, provided that, in fixing rules and regulations in this connection or in enforcing such rules, hospitals interested therein shall be given opportunity to be heard.

HISTORY: Ga. L. 1937, p. 355, § 6.

O.C.G.A. § 31-7-11 (2010)

§ 31-7-11. Written summary of hospital service charge rates

(a) Any hospital shall, upon request, provide a written summary of certain hospital and related services charges, including but not limited to:

- (1) The average total charges per patient day for the facility's previous fiscal year;
- (2) The daily rate for a room in said hospital, which rate shall include an explanation of the categories of services included in said charge;
- (3) Anesthesia charges, with an explanation of the categories of services included in this charge;
- (4) Operating room charges;
- (5) Recovery room charges;
- (6) Intravenous administration charges;
- (7) Emergency room charges, with an explanation of the categories of services included in the charge;
- (8) The charge for the patient care kit or admission kit or other such items furnished to the patient on admission;
- (9) Charges for specific routine tests, including but not limited to a complete blood count, urinalysis, and chest X-ray; and

(10) Charges for specific special tests, including but not limited to electrocardiogram, electroencephalogram, CAT scan of the head, CAT scan of liver, CAT scan of lungs, CAT scan of skeletal system, spirometry, and complete pulmonary function.

Such written summary of charges shall be composed in a simple clear fashion so as to enable consumers to compare hospital charges and make cost-effective decisions in the purchase of hospital services.

(b) The department shall adopt rules and regulations to implement the provisions of this Code section and shall implement such regulations as provided in Code Section 31-7-2.1.

HISTORY: Code 1981, § 31-7-11, enacted by Ga. L. 1983, p. 1307, § 1; Ga. L. 1984, p. 22, § 31.

O.C.G.A. § **31-7-12** (2010)

§ 31-7-12. "Personal care home" defined; licensure and registration; inspection by local boards; fees; investigations; waiver, variance, or exemption

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

(1) "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) "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.

(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.

HISTORY: Code 1981, § 31-7-11, enacted by Ga. L. 1983, p. 1323, § 1.1; Code 1981, § 31-7-12, as redesignated by Ga. L. 1984, p. 22, § 31; Ga. L. 1984, p. 649, § 1; Ga. L. 1985, p. 952, § 1; Ga. L. 1988, p. 13, § 31; Ga. L. 1992, p. 1392, § 1; Ga. L. 1993, p. 317, § 1; Ga. L. 2008, p. 263, § 1/SB 469; Ga. L. 2009, p. 453, § 1-27/HB 228.

O.C.G.A. § **31-7-12.1** (2010)

§ 31-7-12.1. Unlicensed personal care home; penalties; exception; review

(a) A facility shall be deemed to be an "unlicensed personal care home" if it is unlicensed and not exempt from licensure and:

(1) The facility is providing personal services and is operating as a personal care home as those terms are defined in Code Section 31-7-12;

(2) The facility is held out as or represented as providing personal services and operating as a personal care home as those terms are defined in Code Section 31-7-12; or

(3) The facility represents itself as a licensed personal care home.

(b) Personal care homes in existence on July 1, 1994, which obtain licenses from the department no later than October 1, 1994, shall not be subject to the penalties set out in this Code section.

(c) Except as provided in subsection (b) of this Code section, any unlicensed personal care home shall be assessed by the department, after opportunity for hearing in accordance with the provisions of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," a civil penalty in the amount of \$100.00 per bed per day for each day of violation of subsection (b) of Code Section 31-7-12. The department shall send a notice by certified mail or statutory overnight delivery stating that licensure is required and including a period for obtaining licensure with an expiration date. Such notice shall be deemed to be constructively received on the date of the first attempt to deliver such notice by the United States Postal Service. For unlicensed personal care homes which were not in existence on July 1, 1994, the civil

penalty provided by this subsection shall be calculated as beginning on the expiration date of the notice. For unlicensed personal care homes which were in existence on July 1, 1994, the civil penalty provided by this subsection shall be calculated as beginning on the expiration date of the notice or on October 1, 1994, whichever is later. The department shall take no action to collect such civil penalty until after opportunity for a hearing.

(d) The civil penalty authorized by subsection (c) of this Code section shall be doubled if:

(1) The operator of an unlicensed personal care home refuses to seek licensure; or

(2) The operator seeks licensure, the licensure application is denied, and the operator continues to operate the unlicensed personal care home.

(e) The operator of a personal care home who is assessed a civil penalty in accordance with this Code section may have review of such civil penalty by appeal to the superior court in the county in which the action arose or to the Superior Court of Fulton County in accordance with the provisions of Code Section 31-5-3.

HISTORY: Code 1981, § 31-7-12.1, enacted by Ga. L. 1994, p. 461, § 1; Ga. L. 2000, p. 1589, § 3.

O.C.G.A. § **31-7-13** (2010)

§ 31-7-13. Transfer of property upon death of patient

(a) Whenever any person dies in a hospital licensed pursuant to this chapter, in any federal hospital operating within this state, or any nursing home operated within this state, such hospital or nursing home shall be authorized but shall not be required to transfer possession of any property, tangible or intangible, of such patient which is in the possession of the hospital or nursing home, to the following persons:

(1) To the person designated by the patient in writing upon admission to the hospital or nursing home, if any;

(2) To the surviving spouse of the patient, if any;

(3) If no surviving spouse, to any adult child of the patient, and if no such adult child, to any person acting in loco parentis of any minor child;

(4) If no surviving spouse or surviving children, to either parent of the patient;

(5) If none of the above, then to any brother or sister of the patient; or

(6) If none of the above, to the person assuming responsibility for burial of the patient.

(b) The transfer of possession to the surviving spouse or any of the other family members or persons listed in subsection (a) of this Code section shall operate as a complete acquittal and discharge to the hospital or nursing home of liability from any suit, claim, or demand of whatever nature by any heir, distributee, or creditor of the patient, or any other person as relates to the property transferred. Such distribution is authorized to be made as provided in this Code section without the necessity of administration of the estate of the patient and without the necessity of obtaining an order that no administration of such estate is necessary.

(c) The transfer of possession provided for in this Code section shall in no way affect the legal ownership or title to any property so transferred.

(d) The provisions of any law of descent or distribution or any will or other instrument providing for disposition of property shall not be impaired by this Code section, and any person to whom property is transferred pursuant to this Code section may be required to transfer that property in conformity with the disposition of property required by such laws of descent or distribution or such will or other instrument.

HISTORY: Code 1981, § 31-7-11, enacted by Ga. L. 1984, p. 778, § 1; Ga. L. 2009, p. 8, § 31/SB 46.

O.C.G.A. § **31-7-14** (2010)

§ 31-7-14. Blood supplies; blood donor storage programs

(a) When any person is admitted to a medical facility for surgical or medical treatment which has been scheduled in advance, neither the medical facility nor any licensed medical practitioner shall prohibit such person from providing a blood donor or donors to furnish blood which may be needed in such surgery or medical treatment, provided that:

(1) The blood donation will not be detrimental to the donor or the recipient of such blood or any of its components; and

(2) The donation is made not earlier than ten working days before the date of the anticipated transfusion and not later than the evening of the fourth full working day before the date of the anticipated transfusion.

(b) If the person receiving surgical or other medical treatment requires more blood than is furnished by the provided donor or donors, then the medical facility may utilize its regular sources to supply the necessary amount. If less blood than the amount that is furnished by the provided donor or donors is used in the surgery or medical treatment, then the excess blood may be retained by the medical facility or turned over to a community blood bank.

(c) This Code section shall not apply to any emergency surgical or medical treatment.

(d) This Code section shall not apply to any medical facility which does not maintain a system for the collection, processing, and storage of blood and its component parts or to any medical facility which allows through a community blood bank a person to provide a blood donor or donors to furnish blood which may be needed in the person's surgery or medical treatment.

(e) This Code section shall not apply to any person who is under the jurisdiction of the Department of Corrections.

(f) A medical facility or licensed medical practitioner providing health care to a person who utilizes the provisions of this Code section shall not be liable in damages for injury or death occurring during or as a result of the medical or surgical treatment if the injury or death results from use of the blood supplied by the donors selected by the patient, unless that facility or practitioner is grossly negligent with regard to such use.

(g) A medical facility or group of medical facilities may organize and operate short-term blood donor storage programs for the purpose of perpetuating a group of donors of a common blood type for emergency and planned surgical needs.

HISTORY: Code 1981, § 31-7-14, enacted by Ga. L. 1987, p. 1091, § 1.

O.C.G.A. § **31-7-15** (2010)

§ 31-7-15. Review of professional practices by a peer review committee

(a) A hospital or ambulatory surgical center shall provide for the review of professional practices in the hospital or ambulatory surgical center for the purpose of reducing morbidity and mortality and for the improvement of the care of patients in the hospital or ambulatory surgical center. This review shall include, but shall not be limited to, the following:

(1) The quality of the care provided to patients as rendered in the hospital or ambulatory surgical center;

(2) The review of medical treatment and diagnostic and surgical procedures in order to foster safe and adequate treatment of patients in the hospital or ambulatory surgical center; and

(3) The evaluation of medical and health care services or the qualifications and professional competence of persons performing or seeking to perform such services.

(b) The functions required by subsection (a) of this Code section may be performed by a "peer review committee," defined as a committee of physicians appointed by a state or local or specialty medical society or appointed by the governing board or medical staff of a licensed hospital or ambulatory surgical center or any other organization formed pursuant to state or federal law and engaged by the hospital or ambulatory surgical center for the

purpose of performing such functions required by subsection (a) of this Code section.

(c) Compliance with the above provisions of subsection (a) of this Code section shall constitute a requirement for granting or renewing the permit of a hospital or ambulatory surgical center. The functions required by this Code section shall be carried out under the regulations and supervision of the department.

(d) Proceedings and records conducted or generated in an attempt to comply with the duties imposed by subsection (a) of this Code section shall not be subject to the provisions of either Chapter 14 or Article 4 of Chapter 18 of Title 50.

(e) Nothing in this or any other Code section shall be deemed to require any hospital or ambulatory surgical center to grant medical staff membership or privileges to any licensed practitioner of the healing arts.

HISTORY: Code 1981, § 31-7-15, enacted by Ga. L. 1987, p. 1494, § 1.

O.C.G.A. § **31-7-16** (2010)

§ 31-7-16. Determination or pronouncement of death of patient who died in facility classified as nursing home

When a patient dies in any facility classified as a nursing home by the department and operating under a permit issued by the department, a physician assistant or a registered professional nurse licensed in this state and employed by such nursing home at the time of apparent death of such person, in the absence of a physician, may make the determination and pronouncement of the death of said patient; provided, however, that, when said patient is a registered organ donor, only a physician may make the determination or pronouncement of death; provided, further, that when it appears that a patient died from other than natural causes, only a physician may make the determination or pronouncement of death. Such determination or pronouncement shall be made in writing on a form approved by the department.

HISTORY: Code 1981, § 31-7-16, enacted by Ga. L. 1996, p. 1243, § 1; Ga. L. 2009, p. 859, § 3/HB 509.

O.C.G.A. § **31-7-17** (2010)

§ 31-7-17. Licensure and regulation of hospitals and related institutions transferred to Department of Community Health

(a) Effective July 1, 2009, all matters relating to the licensure and regulation of hospitals and related institutions pursuant to this article shall be transferred from the Department of Human Resources (now known as the Department of Human Services) to the Department of Community Health.

(b) The Department of Community Health shall succeed to all rules, regulations, policies, procedures, and administrative orders of the Department of Human Resources that are in effect on June 30, 2009, or scheduled to go into effect on or after July 1, 2009, and which relate to the functions transferred to the Department of Community Health pursuant to this Code section and shall further succeed to any rights, privileges, entitlements, obligations, and duties of the Department of Human Resources that are in effect on June 30, 2009, which relate to the functions transferred to the Department of Community Health pursuant to this Code section. Such rules, regulations, policies, procedures, and administrative orders shall remain in effect until amended, repealed, superseded, or nullified by the Department of Community Health by proper authority or as otherwise provided by law.

(c) The rights, privileges, entitlements, and duties of parties to contracts, leases, agreements, and other transactions entered into before July 1, 2009, by the Department of Human Resources which relate to the functions transferred to the Department of Community Health pursuant to this Code section shall continue to exist; and none of these rights, privileges, entitlements, and duties are impaired or diminished by reason of the transfer of the functions to the Department of Community Health. In all such instances, the Department of Community Health shall be substituted for the Department of Human Resources, and the Department of Community Health shall succeed to the rights and duties under such contracts, leases, agreements, and other transactions.

(d) All persons employed by the Department of Human Resources in capacities which relate to the functions transferred to the Department of Community Health pursuant to this Code section on June 30, 2009, shall, on July 1, 2009, become employees of the Department of Community Health in similar capacities, as determined by the commissioner of community health. Such employees shall be subject to the employment practices and policies of the Department of Community Health on and after July 1, 2009, but the compensation and benefits of such transferred employees shall not be reduced as a result of such transfer. Employees who are subject to the rules of the State Personnel Board and thereby under the State Personnel Administration and who are transferred to the department shall retain all existing rights under the State Personnel Administration. Retirement rights of such transferred employees existing under the Employees' Retirement System of Georgia or other public retirement systems on June 30, 2009, shall not be impaired or interrupted by the transfer of such employees and membership in any such retirement system shall continue in the same status possessed by the transferred employees on June 30, 2009. Accrued annual and sick leave possessed by said employees on June 30, 2009, shall be retained by said employees as employees of the Department of Community Health.

HISTORY: Code 1981, § 31-7-17, enacted by Ga. L. 2008, p. 12, § 2-14/SB 433; Ga. L. 2009, p. 453, § 1-28/HB 228; Ga. L. 2009, p. 745, § 2/SB 97.

O.C.G.A. § **31-7-18** (2010)

§ 31-7-18. Influenza vaccinations for discharged patients aged 65 and older; vaccinations or other measures for health care workers and other employees in hospitals; immunity from

liability; standing orders

(a) Prior to discharging any inpatient who is 65 years of age or older, a hospital shall offer the inpatient vaccinations for the influenza virus and pneumococcal disease in accordance with the recommendations of the Centers for Disease Control and Prevention and any applicable rules and regulations of the department, unless contraindicated and contingent on availability of such vaccine. A hospital may offer other patients such vaccinations in accordance with the recommendations of the Centers for Disease Control and Prevention and any applicable rules and regulations of the department. The vaccinations may be administered pursuant to a standing order that has been approved by the hospital's medical staff.

(b) A hospital shall annually offer to its health care workers and other employees who have direct contact with patients, at no cost, vaccinations for the influenza virus in accordance with the recommendations of the Centers for Disease Control and Prevention, subject to availability of the vaccine. A hospital may offer to its health care workers and other employees any other vaccination, test, or prophylactic measure required or recommended by, and in accordance with the recommendations of, the Centers for Disease Control and Prevention. All such vaccinations, tests, or prophylactic measures may be offered or administered pursuant to standing orders approved by the hospital's medical staff to ensure the safety of employees, patients, visitors, and contractors.

(c) A hospital or health care provider acting in good faith and in accordance with generally accepted health care standards applicable to such hospital or health care provider shall not be subject to administrative, civil, or criminal liability or to discipline for unprofessional conduct for complying with the requirements of this Code section.

(d) Nothing in this Code section shall restrict or limit the use of standing orders in hospitals for any other lawful purpose.

HISTORY: Code 1981, § 31-7-18, enacted by Ga. L. 2008, p. 520, § 1/ HB 1105; Ga. L. 2009, p. 184, § 2/ HB 217; Ga. L. 2010, p. 529, § 1/ HB 1179.