House Bill 752 (AS PASSED HOUSE AND SENATE)
By: Representatives Cooper of the 43rd, Dempsey of the 13th, Hogan of the 179th, Oliver of the 82nd, Hatchett of the 150th, and others

A BILL TO BE ENTITLED
AN ACT

To amend Title 37 of the Official Code of Georgia Annotated, relating to mental health, so as to provide for a psychiatric advance directive; to provide for a competent adult to express his or her mental health care treatment preferences and desires directly through instructions written in advance and indirectly through appointing an agent to make mental health care decisions on behalf of that person; to provide a short title; to provide for intent; to provide for definitions; to provide for the scope, use, and authority of a psychiatric advance directive; to provide for the appointment, powers, duties, and access to information of a mental health care agent; to provide for limitations on serving as a mental health care agent and for an agent's ability to withdraw as agent; to provide for revocation of a psychiatric advance directive; to provide for the use and effectiveness of a psychiatric advance directive; to provide for the responsibilities and duties of physicians and other providers using a psychiatric advance directive; to provide for civil and criminal immunity under certain circumstances; to provide a statutory psychiatric advance directive form; to provide for construction of such form; to amend Titles 10, 16, 19, 29, 31, 37, and 49 of the Official Code of Georgia Annotated, relating to commerce and trade, crimes and offenses, domestic relations, guardian and ward, health, mental health, and social services, respectively, so as to provide for interaction and relationship with advance directives for health care; to provide for application; to provide for statutory construction; to authorize a health care facility to
prepare or offer to prepare an advance directive for health care if there is no coercion and the 
person consents; to provide for conforming references and consistent terminology; to provide 
for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

SECTION 1-1.

Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by 
adding a new chapter to read as follows:

"CHAPTER 11

37-11-1. This chapter shall be known and may be cited as the 'Psychiatric Advance Directive Act.'

37-11-2. This chapter is enacted in recognition of the fundamental right of an individual to have 
power over decisions relating to his or her mental health care as a matter of public policy.

37-11-3. As used in this chapter, the term:

(1) 'Capable' means not incapable of making mental health care decisions.

(2) 'Competent adult' means a person of sound mind who is 18 years of age or older or 
is an emancipated minor.
(3) 'Declarant' means a person who has executed a psychiatric advance directive authorized by this chapter.

(4) 'Facility' means a hospital, skilled nursing facility, hospice, institution, home, residential or nursing facility, treatment facility, and any other facility or service which has a valid permit or provisional permit issued under Chapter 7 of Title 31 or which is licensed, accredited, or approved under the laws of any state, and includes hospitals operated by the United States government or by any state or subdivision thereof and community service boards.

(5) 'Incapable of making mental health care decisions' means that, in the opinion of a physician or licensed psychologist who has personally examined a declarant, or in the opinion of a court, a declarant lacks the capacity to understand the risks and benefits of, and the alternatives to, a mental health care decision under consideration and is unable to give or communicate rational reasons for mental health care decisions because of impaired thinking, impaired ability to receive and evaluate information, or other cognitive disability.

(6) 'Mental health care' means any care, treatment, service, or procedure to maintain, diagnose, treat, or provide for a declarant's mental or emotional illness, developmental disability, or addictive disease.

(7) 'Mental health care agent' or 'agent' means a person appointed by a declarant to act for and on behalf of such declarant to make decisions related to consent, refusal, or withdrawal of any type of mental health care when such declarant is incapable of making mental health care decisions for himself or herself. Such term shall include any back-up mental health care agent appointed by a declarant.

(8) 'Physician' means a person lawfully licensed in this state to practice medicine pursuant to Article 2 of Chapter 34 of Title 43 and, if the declarant is receiving mental health care in another state, a person lawfully licensed in such state.
(9) 'Provider' means any person administering mental health care who is licensed, certified, or otherwise authorized or permitted by law to administer mental health care in the ordinary course of business or the practice of a profession, including, but not limited to, professional counselors, psychologists, clinical social workers, marriage and family therapists, and clinical nurse specialists in psychiatric and mental health; a physician; or any person acting for any such authorized person.

(10) 'Psychiatric advance directive' or 'directive' means a written document voluntarily executed by a person in accordance with the requirements of Code Section 37-11-9.

37-11-4.

(a) A competent adult may execute a psychiatric advance directive containing mental health care preferences, information, or instructions regarding his or her mental health care that authorizes and consents to a provider or facility acting in accordance with such directive. A directive may include consent to or refusal of specified mental health care.

(b) A psychiatric advance directive may include, but shall not be limited to:

(1) The names and telephone numbers of individuals to contact in the event a declarant has a mental health crisis;

(2) Situations that have been known to cause a declarant to experience a mental health crisis;

(3) Responses that have been known to de-escalate a declarant's mental health crisis;

(4) Responses that may assist a declarant to remain in such declarant's home during a mental health crisis;

(5) The types of assistance that may help stabilize a declarant if it becomes necessary to enter a facility; and

(6) Medications a declarant is taking or has taken in the past and the effects of such medications.

(c) A psychiatric advance directive may include a mental health care agent.
(d) If a declarant chooses not to appoint an agent, the instructions and desires of a declarant as set forth in the directive shall be followed to the fullest extent possible by every provider or facility to whom the directive is communicated, subject to the right of the provider or facility to refuse to comply with the directive as set forth in Code Section 37-11-12.

(e) A person shall not be required to execute or refrain from executing a directive as a criterion for insurance, as a condition for receiving mental health care or physical health care services, or as a condition of discharge from a facility.

(f) Unless a declarant indicates otherwise, a psychiatric advance directive shall take precedence over any advance directive for health care executed pursuant to Chapter 32 of Title 31; durable power of attorney for health care creating a health care agency under the former Chapter 36 of Title 31, as such chapter existed on and before June 30, 2007; health care proxy; or living will that a declarant executed prior to executing a psychiatric advance directive to the extent that such other documents relate to mental health care and are inconsistent with the psychiatric advance directive.

(g) No provision of this chapter shall be construed to bar use by a declarant of an advance directive for health care under Chapter 32 of Title 31.

37-11-5.

(a) A declarant may designate a competent adult to act as his or her agent to make decisions about his or her mental health care. An alternative agent may also be designated.

(b) An agent shall have no authority to make mental health care decisions when a declarant is capable.

(c) The authority of an agent shall continue in effect so long as the directive appointing such agent is in effect or until such agent has withdrawn.

(d) An agent appointed by a declarant:
(1) Shall be authorized to make any and all mental health care decisions on behalf of such declarant which such declarant could make if such declarant were capable;

(2) Shall exercise granted powers in a manner consistent with the intent and desires of such declarant. If such declarant's intentions and desires are not expressed or are unclear, the agent shall act in such declarant's best interests, considering the benefits, burdens, and risks of such declarant's circumstances and mental health care options;

(3) Shall not be under any duty to exercise granted powers or to assume control of or responsibility for such declarant's mental health care; but, when granted powers are exercised, the agent shall be required to use due care to act for the benefit of such declarant in accordance with the terms of the psychiatric advance directive;

(4) Shall not make a mental health care decision different from or contrary to such declarant's instruction if such declarant is capable at the time of the request for consent or refusal of mental health care;

(5)(A) May make a mental health care decision different from or contrary to such declarant's instruction in such declarant's psychiatric advance directive if:

   (i) Such declarant's provider or facility determines in good faith at the time of consent or refusal of mental health care that the mental health care requested or refused in the directive's instructions is:

      (I) Unavailable;

      (II) Medically contraindicated in a manner that would result in substantial harm to such declarant if administered; or

      (III) In the opinion of the provider or facility, inconsistent with reasonable medical standards to benefit such declarant or has proven ineffective in treating such declarant's mental health condition; and

   (ii) The mental health care requested or refused in the directive's instructions is unlikely to be delivered by another provider or facility in the community under the circumstances.
(B) In the event the agent exercises authority under one of the circumstances set forth
in subparagraph (A) of this paragraph, the agent shall exercise the authority in a manner
consistent with the intent and desires of such declarant. If such declarant's intentions
and desires are not expressed or are unclear, the agent shall act in such declarant's best
interests, considering the benefits, burdens, and risks of such declarant's circumstances
and mental health care options;

(6) Shall not delegate authority to make mental health care decisions; and

(7) Has the following general powers, unless expressly limited in the psychiatric advance
directive:

(A) To sign and deliver all instruments, negotiate and enter into all agreements, and do
all other acts reasonably necessary to exercise the powers granted to the agent;

(B) To consent to, authorize, refuse, or withdraw consent to any providers and any type
of mental health care of such declarant, including any medication program;

(C) To request and consent to admission or discharge from any facility; and

(D) To contract for mental health care and facilities in the name of and on behalf of
such declarant, and the agent shall not be personally financially liable for any services
or mental health care contracted for on behalf of such declarant.

(e) A court may remove a mental health care agent if it finds that an agent is not acting in
accordance with the declarant's treatment instructions as expressed in his or her directive.

37-11-6.

(a) Except to the extent that a right is limited by a directive or by any state or federal law
or regulation, an agent shall have the same right as a declarant to receive information
regarding the proposed mental health care and to receive, review, and consent to disclosure
of medical records, including records relating to the treatment of a substance use disorder,
relating to that mental health care. All of a declarant's mental health information and
medical records shall remain otherwise protected under state and federal privilege, and this
right of access shall not waive any evidentiary privilege.

(b) At the declarant's expense and subject to reasonable rules of a provider or facility to
prevent disruption of the declarant's mental health care, an agent shall have the same right
the declarant has to examine, copy, and consent to disclosure of all the declarant's medical
records that the agent deems relevant to the exercise of the agent's powers, whether the
records relate to mental health or any other medical condition and whether they are in the
possession of or maintained by any physician, psychiatrist, psychologist, therapist, facility,
or other health care provider, despite contrary provisions of any other statute or rule of law.

(c) The authority given an agent by this Code section shall include all rights that a
declarant has under the federal Health Insurance Portability and Accountability Act of
1996, P.L. 104-191, and its implementing regulations regarding the use and disclosure of
individually identifiable health information and other medical records.

37-11-7.

The following persons shall not serve as a declarant's agent:

(1) Such declarant's provider or an employee of that provider unless such employee is
a family member, friend, or associate of such declarant and is not directly involved in
such declarant's mental health care; or

(2) An employee of the Department of Behavioral Health and Developmental Disabilities
or of a local public mental health agency or of any organization that contracts with a local
public mental health authority unless such employee is a family member, friend, or
associate of such declarant and is not directly involved in such declarant's mental health
care.
An agent may withdraw by giving written notice to a declarant. If such declarant is incapable of making mental health care decisions, such agent may withdraw by giving written notice to the provider or facility that is providing mental health care to the declarant at the time of the agent's withdrawal. Any provider or facility that receives an agent's withdrawal shall document the withdrawal as part of such declarant's medical record.

A psychiatric advance directive shall be effective only if it is signed by the declarant and witnessed by two competent adults, but such witnesses shall not be required to be together or present when such declarant signs the directive. The witnesses shall attest that the declarant is known to them, appears to be of sound mind, is not under duress, fraud, or undue influence, and signed his or her directive in the witness's presence or acknowledges signing his or her directive. For purposes of this subsection, the term 'of sound mind' means having a decided and rational desire to create a psychiatric advance directive.

A validly executed psychiatric advance directive shall become effective upon its proper execution and shall remain in effect until revoked by the declarant.

The following persons shall not serve as witnesses to the signing of a directive:

1. A provider who is providing mental health care to the declarant at the time such directive is being executed or an employee of such provider unless such employee is a family member, friend, or associate of such declarant and is not directly involved in the declarant's mental health care;

2. An employee of the Department of Behavioral Health and Developmental Disabilities or of a local public mental health agency or of any organization that contracts with a local public mental health authority unless such person is a family member, friend, or associate of such declarant and is not directly involved in the declarant's mental health care; or

3. A person selected to serve as the declarant's mental health care agent.
(d) A person who witnesses a psychiatric advance directive in good faith and in accordance with this chapter shall not be civilly liable or criminally prosecuted for actions taken by an agent.

(e) A copy of a directive executed in accordance with this Code section shall be valid and have the same meaning and effect as the original document.

37-11-10.

(a) A directive may be revoked in whole or in part at any time by the declarant, so long as such declarant is capable, by any of the following methods:

(1) By completing a new directive that has provisions which are inconsistent with the provisions of a previously executed directive; an advance directive for health care executed pursuant to Chapter 32 of Title 31; a durable power of attorney for health care creating a health care agency under the former Chapter 36 of Title 31, as such chapter existed on and before June 30, 2007; a health care proxy; or a living will; provided, however, that such revocation shall extend only so far as the inconsistency exists between the documents and any part of a prior document that is not inconsistent with a subsequent document shall remain unrevoked;

(2) By being obliterated, burned, torn, or otherwise destroyed by the declarant or by some person in the declarant's presence and at the declarant's direction indicating an intention to revoke;

(3) By a written revocation clearly expressing the intent of the declarant to revoke the directive signed and dated by the declarant or by a person acting at the declarant's direction. If the declarant is receiving mental health care in a facility, revocation of a directive will become effective only upon communication to the attending provider by the declarant or by a person acting at the declarant's direction. The attending provider shall record in the declarant's medical record the time and date when the attending provider received notification of the written revocation; or
(4) By an oral or any other clear expression of the intent to revoke the directive in the presence of a witness 18 years of age or older who, within 30 days of the expression of such intent, signs and dates a writing confirming that such expression of intent was made. If the declarant is receiving mental health care in a facility, revocation of a directive will become effective only upon communication to the attending provider by the declarant or by a person acting at the declarant's direction. The attending provider shall record in the declarant's medical record the time, date, and place of the revocation and the time, date, and place, if different, when the attending provider received notification of the revocation. Any person, other than the mental health care agent, to whom an oral or other nonwritten revocation of a directive is communicated or delivered shall make all reasonable efforts to inform the mental health care agent of that fact as promptly as possible.

(b) Unless a directive expressly provides otherwise, if after executing a directive, the declarant marries, such marriage shall revoke the designation of a person other than the declarant's spouse as the declarant's mental health care agent, and if, after executing a directive, the declarant's marriage is dissolved or annulled, such dissolution or annulment shall revoke the designation of the declarant's former spouse as the declarant's mental health care agent.

(c) A directive which survives disability, incapacity, or incompetency shall not be revoked solely by the appointment of a guardian or receiver for the declarant. Absent an order of the probate court or superior court having jurisdiction directing a guardian of the person to exercise the powers of the declarant under a directive which survives disability, incapacity, or incompetency, the guardian of the person has no power, duty, or liability with respect to any mental health care matters covered by the directive; provided, however, that no order usurping the authority of a mental health care agent known to the proposed guardian shall be entered unless notice is sent by first-class mail to the mental health care
agent's last known address and it is shown by clear and convincing evidence that the mental
health care agent is acting in a manner inconsistent with the directive.

37-11-11.
(a) Upon being presented with a psychiatric advance directive, a provider or facility shall
make the directive a part of a declarant's medical record.
(b) In the absence of specific knowledge of the revocation or invalidity of a directive, a
provider or facility providing mental health care to a declarant may presume that a person
who executed a psychiatric advance directive in accordance with this chapter was of sound
mind and acted voluntarily when executing such directive and may rely upon a psychiatric
advance directive or a copy of that directive.
(c) A provider or facility shall be authorized to act in accordance with a directive when a
declarant is incapable of making mental health care decisions.
(d) A provider or facility shall continue to obtain a declarant's consent to all mental health
care decisions if he or she is capable of providing consent or refusal.

37-11-12.
(a)(1) When acting under the authority of a directive, a provider or facility shall comply
with it to the fullest extent possible unless the requested mental health care is:
(A) Unavailable;
(B) Medically contraindicated in a manner that would result in substantial harm to the
declarant if administered; or
(C) In the opinion of the provider or facility, inconsistent with reasonable medical
standards to benefit the declarant or has proven ineffective in treating such declarant's
mental health condition.
(2) In the event that a part of a directive is unable to be followed due to any of the circumstances set forth in paragraph (1) of this subsection, all other parts of such directive shall be followed.

(b) If a provider or facility is unwilling at any time for one or more of the reasons set forth in paragraph (1) of subsection (a) of this Code section to comply with a declarant's wishes as set forth in the directive or with the decision of such declarant's agent, such provider or facility shall:

(1) Document the reason for not following the directive in such declarant's medical record; and

(2) Promptly notify such declarant and his or her agent, if one is appointed in the directive, or otherwise such declarant's legal guardian, of the refusal to follow the directive or instructions of the agent and document the notification in such declarant's medical record.

(c) In the event a provider or facility is unwilling at any time for one or more of the reasons set forth in paragraph (1) of subsection (a) of this Code section to comply with a declarant's wishes as set forth in the directive or with the decision of such declarant's agent, if an agent has been appointed, then the declarant's agent, or otherwise such declarant's legal guardian, shall arrange for such declarant's transfer to another provider or facility if the requested care would be delivered by that other provider or facility.

(d) A provider or facility unwilling at any time for one or more of the reasons set forth in paragraph (1) of subsection (a) of this Code section to comply with a declarant's wishes as set forth in the directive or with the decision of a declarant's mental health care agent shall continue to provide reasonably necessary consultation and care in connection with the pending transfer.

(e) A psychiatric advance directive shall not limit the involuntary examination, treatment, or hospitalization of patients pursuant to Chapter 3 or Chapter 7 of this title or evaluations.
or treatment services rendered pursuant to a court order under Code Section 17-7-130, 17-7-130.1, or 17-7-131.

(f) Nothing in this chapter shall be construed to require a provider or facility to provide mental health care for which a declarant or a third-party payor is unable or refuses to ensure payment.


(a) Each provider, facility, or any other person who acts in good faith reliance on any instructions contained in a directive or on any direction or decision by a mental health care agent shall be protected and released to the same extent as though such person had interacted directly with a capable declarant.

(b) Without limiting the generality of the provisions of subsection (a) of this Code section, the following specific provisions shall also govern, protect, and validate the acts of a mental health care agent and each such provider, facility, and any other person acting in good faith reliance on such instruction, direction, or decision:

(1) No provider, facility, or person shall be subject to civil or criminal liability or discipline for unprofessional conduct solely for complying with any instructions contained in a directive or with any direction or decision by a mental health care agent, even if death or injury to the declarant ensues;

(2) No provider, facility, or person shall be subject to civil or criminal liability or discipline for unprofessional conduct solely for failure to comply with any instructions contained in a directive or with any direction or decision by a mental health care agent, so long as such provider, facility, or person promptly informs such agent of such provider's, facility's, or person's refusal or failure to comply with the directive or with any direction or decision by the mental health care agent. The mental health care agent shall then be responsible for arranging the declarant's transfer to another provider. A provider who is unwilling to comply with the mental health care agent's decision or the directive
shall continue to provide reasonably necessary consultation and care in connection with
the pending transfer;

(3) If the actions of a provider, facility, or person who fails to comply with any
instruction contained in a directive or with any direction or decision by a mental health
care agent are substantially in accord with reasonable medical standards at the time of
consent or refusal of mental health care and such provider, facility, or person cooperates
in the transfer of the declarant pursuant to subsection (d) of Code Section 37-11-12, such
provider, facility, or person shall not be subject to civil or criminal liability or discipline
for unprofessional conduct for failure to comply with the psychiatric advance directive;

(4) No mental health care agent who, in good faith, acts with due care for the benefit of
the declarant and in accordance with the terms of a directive, or who fails to act, shall be
subject to civil or criminal liability for such action or inaction;

(5) If the authority granted by a psychiatric advance directive is revoked under
Code Section 37-11-10, a provider, facility, or agent shall not be subject to criminal
prosecution or civil liability for acting in good faith reliance upon such psychiatric
advance directive unless such provider, facility, or agent had actual knowledge of the
revocation; and

(6) In the event a declarant has appointed a health care agent in accordance with Chapter
32 of Title 31, no provider, facility, or person who relies in good faith on the direction of
such health care agent shall be subject to civil or criminal liability or discipline for
unprofessional conduct for complying with any direction or decision of such health care
agent in the event the declarant's condition is subsequently determined to be a mental
health care condition.

37-11-14.

A law enforcement officer who uses a declarant's valid psychiatric advance directive and
acts in good faith reliance on the instructions contained in such directive shall not be
subject to criminal prosecution or civil liability for any harm to such declarant that results
from a good faith effort to follow such directive's instructions.

37-11-15.
(a) The provisions of this chapter shall not apply to or invalidate a valid psychiatric
advance directive executed prior to July 1, 2022.
(b) The use of the form set forth in Code Section 37-11-16 or a similar form after July 1,
2022, in the creation of a psychiatric advance directive shall be deemed lawful and, when
such form is used and it meets the requirements of this chapter, it shall be construed in
accordance with the provisions of this chapter.
(c) Any person may use another form for a psychiatric advance directive so long as the
form is substantially similar to, otherwise complies with the provisions of this chapter, and
provides notice to a declarant substantially similar to that contained in the form set forth
in Code Section 37-11-16. As used in this subsection, the term 'substantially similar' may
include forms from other states.

37-11-16.

'GEORGIA PSYCHIATRIC ADVANCE DIRECTIVE'

By:  _______________________________________  Date of Birth:  ________________
     (Print Name)                                      (Month/Day/Year)

As used in this psychiatric advance directive, the term:
(1) "Facility" means a hospital, skilled nursing facility, hospice, institution, home,
residential or nursing facility, treatment facility, and any other facility or service which
has a valid permit or provisional permit issued under Chapter 7 of Title 31 of the Official
Code of Georgia Annotated or which is licensed, accredited, or approved under the laws
of any state, and includes hospitals operated by the United States government or by any state or subdivision thereof.

(2) "Provider" means any person administering mental health care who is licensed, certified, or otherwise authorized or permitted by law to administer mental health care in the ordinary course of business or the practice of a profession, including, but not limited to, professional counselors, psychologists, clinical social workers, marriage and family therapists, and clinical nurse specialists in psychiatric and mental health; a physician; or any person acting for any such authorized person.

This psychiatric advance directive has four parts:

PART ONE  STATEMENT OF INTENT AND TREATMENT PREFERENCES.
This part allows you to state your intention for this document and state your mental health treatment preferences and consent if you have been determined to be incapable of making informed decisions about your mental health care. PART ONE will become effective only if you have been determined in the opinion of a physician or licensed psychologist who has personally examined you, or in the opinion of a court, to lack the capacity to understand the risks and benefits of, and the alternatives to, a mental health care decision under consideration and you are unable to give or communicate rational reasons for mental health care decisions because of impaired thinking, impaired ability to receive and evaluate information, or other cognitive disability. Reasonable and appropriate efforts will be made to communicate with you about your mental health treatment preferences before PART ONE becomes effective. You should talk to your family and others close to you about your intentions and mental health treatment preferences.
PART TWO  MENTAL HEALTH CARE AGENT. This part allows you to choose someone to make mental health care decisions for you when you cannot make mental health care decisions for yourself. The person you choose is called a mental health care agent. You should talk to your mental health care agent about this important role.

PART THREE  OTHER RELATED ISSUES. This part allows you to give important information to people who may be involved with you during a mental health care crisis.

PART FOUR  EFFECTIVENESS AND SIGNATURES. This part requires your signature and the signatures of two witnesses. You must complete PART FOUR if you have filled out any other part of this form.

You may fill out any or all of the first three parts listed above. You must fill out PART FOUR of this form in order for this form to be effective.

You should give a copy of this completed form to people who might need it, such as your mental health care agent, your family, and your physician. Keep a copy of this completed form at home in a place where it can easily be found if it is needed. Review this completed form periodically to make sure it still reflects your preferences. If your preferences change, complete a new psychiatric advance directive.

Using this form of psychiatric advance directive is completely optional. Other forms of psychiatric advance directives may be used in Georgia.
You may revoke this completed form at any time that you are capable of making informed decisions about your mental health care. If you choose to revoke this form, you should communicate your revocation to your providers, your agents, and any other person to whom you have given a copy of this form. This completed form will supersede any advance directive for health care, durable power of attorney for health care, health care proxy, or living will that you have completed before completing this form to the extent that such other documents relate to mental health care and are inconsistent with the information contained in this form.

PART ONE: STATEMENT OF INTENT AND TREATMENT PREFERENCES

PART ONE will become effective only if you have been determined in the opinion of a physician or licensed psychologist who has personally examined you, or in the opinion of a court, to lack the capacity to understand the risks and benefits of, and the alternatives to, a mental health care decision under consideration and you are unable to give or communicate rational reasons for mental health care decisions because of impaired thinking, impaired ability to receive and evaluate information, or other cognitive disability. Reasonable and appropriate efforts will be made to communicate with you about your mental health treatment preferences before PART ONE becomes effective. PART ONE will be effective even if PARTS TWO or THREE are not completed. If you have not selected a mental health care agent in PART TWO, or if your mental health care agent is not available, then PART ONE will communicate your treatment preferences to your providers or a facility providing care to you. If you have selected a mental health care agent in PART TWO, then your mental health care agent will have the authority to make health care decisions for you regarding matters guided by your mental health treatment preferences and other factors described in this PART.]
(1) STATEMENT OF INTENT

I, (your name)___________________________, being of sound mind, willfully and voluntarily make this psychiatric advance directive as a means of expressing in advance my informed choices and consent regarding my mental health care in the event I become incapable of making informed decisions on my own behalf. I understand this document becomes effective if it is determined by a physician or licensed psychologist who has personally examined me, or in the opinion of a court, that I lack the capacity to understand the risks, benefits, and alternatives to a mental health care treatment decision under consideration and I am unable to give or communicate rational reasons for my mental health care treatment decisions because of impaired thinking, impaired ability to receive and evaluate information, or other cognitive disability.

If I am deemed incapable of making mental health care decisions, I intend for this document to constitute my advance authorization and consent, based on my past experiences with my illness and knowledge gained from those experiences, for treatment that is medically indicated and consistent with the preferences I have expressed in this document.

I understand this document continues in operation only during my incapacity to make mental health care decisions. I understand I may revoke this document only during periods when I am mentally capable.

I intend for this psychiatric advance directive to take precedence over any advance directive for health care executed pursuant to Chapter 32 of Title 31 of the Official Code of Georgia Annotated, durable power of attorney for health care creating a health care agency under the former Chapter 36 of Title 31 of the Official Code of Georgia Annotated, as such chapter existed on and before June 30, 2007, health care proxy, or
living will that I have executed prior to executing this form to the extent that such other
documents relate to mental health care and are inconsistent with this executed document.

In the event that a decision maker is appointed by a court to make mental health care
decisions for me, I intend this document to take precedence over all other means of
determining my intent while I was competent.

It is my intent that a person or facility involved in my care shall not be civilly liable or
criminally prosecuted for honoring my wishes as expressed in this document or for
following the directions of my agent.

(2) INFORMATION REGARDING MY SYMPTOMS
The following are symptoms or behaviors I typically exhibit when escalating toward a
mental health crisis. If I exhibit any of these symptoms or behaviors, an evaluation may
be needed regarding whether I am incapable of making mental health care decisions:

The following may cause me to experience a mental health crisis or to make my
symptoms worse:

The following techniques may be helpful in de-escalating my crisis:
When I exhibit the following behaviors, I would like to be evaluated to determine whether I have regained the capacity to make my mental health care decisions:

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(3) PREFERRED CLINICIANS

The names of my doctors, therapists, pharmacists, and other mental health care professionals and their telephone numbers are:

Name and telephone numbers:

-------------------------------------------------------------
-------------------------------------------------------------
-------------------------------------------------------------

I prefer and consent to treatment from the following clinicians:

Names:

-------------------------------------------------------------
-------------------------------------------------------------
-------------------------------------------------------------

I refuse to be treated by the following clinicians:

Names:

-------------------------------------------------------------
-------------------------------------------------------------
-------------------------------------------------------------
(4) TREATMENT INSTRUCTIONS

Medications

I am currently using and consent to continue to use the following medications (include all medications, whether for mental health care treatment or general health care treatment):

_________________________________________________________________
_________________________________________________________________
_________________________________________________________________

If additional medications become necessary, I prefer and consent to take the following medications:

_________________________________________________________________
_________________________________________________________________
_________________________________________________________________

I cannot tolerate the following medications because:

_________________________________________________________________
_________________________________________________________________
_________________________________________________________________

I am allergic to the following medications:

_________________________________________________________________
_________________________________________________________________
_________________________________________________________________

If my preferred medications cannot be given and I have not appointed an agent in PART TWO to make an alternative decision for me, I want my treating physician to choose an alternative medication that would best meet my mental health needs, subject to any limitations I have expressed in my treating instructions above. (Check "yes" if you agree with this statement and "no" if you disagree with this statement.) Yes _____  No______
In the event I need to have medication administered, I would prefer and consent to the following methods (Check "yes" or "no" and list a reason for your request if you have one.):

Medication in pill form: Yes ______ No ______
Reason: ________________________________________________________________

Liquid medication: Yes ______ No ______
Reason: ________________________________________________________________

Medication by injection: Yes ______ No ______
Reason: ________________________________________________________________

Covert medication (without my knowledge in drink or food): Yes ______ No ______
Reason: ________________________________________________________________

**Hospitalization is Not My First Choice**

It is my intention, if possible, to stay at home or in the community with the following supports:

____________________________________________________________________
____________________________________________________________________
____________________________________________________________________

If I need outpatient therapy, I prefer and consent to it being provided by:

____________________________________________________________________
____________________________________________________________________
____________________________________________________________________

Additional instructions that may help me avoid a hospitalization:

____________________________________________________________________
____________________________________________________________________
____________________________________________________________________

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Treatment Facilities

If it becomes necessary for me to be hospitalized, I would prefer and consent to being treated at the following facilities:

____________________________________________________________________
____________________________________________________________________
____________________________________________________________________

I refuse to be treated at the following facilities:

____________________________________________________________________
____________________________________________________________________
____________________________________________________________________

Reason(s) for wishing to avoid the above facilities:

____________________________________________________________________
____________________________________________________________________
____________________________________________________________________

I generally react to being hospitalized as follows:

____________________________________________________________________
____________________________________________________________________

Staff at a facility can help me by doing the following:

____________________________________________________________________
____________________________________________________________________
____________________________________________________________________

I give permission for the following people to visit me:

____________________________________________________________________
____________________________________________________________________
____________________________________________________________________
Additional Interventions *(Please place your initials in the blanks)*

I prefer the following interventions as indicated by my initials and consent to any intervention where I have initialed next to "yes."

Seclusion: ______________________ Yes ________ No ________
Reason: _______________________________________________________

Physical restraints: ____________________ Yes ________ No ________
Reason: _______________________________________________________

Experimental treatment: ______________________ Yes ________ No ________
Reason: _______________________________________________________

Electroconvulsive therapy (ECT): ______________________ Yes ________ No ________
Reason: _______________________________________________________

Any limitations on consent to the administration of electroconvulsive therapy:
________________________________________________________________
________________________________________________________________
________________________________________________________________

Other instructions as to my preferred interventions:
________________________________________________________________
________________________________________________________________
________________________________________________________________

(5) ADDITIONAL STATEMENTS

*This section is optional. This PART will be effective even if this section is left blank.*

This section allows you to state additional mental health treatment preferences, to provide additional guidance to your mental health care agent (if you have selected a mental health care agent in PART TWO), or to provide information about your personal and religious values about your mental health care and treatment. Understanding that you cannot foresee everything that could happen to you, you may want to provide
PART TWO: MENTAL HEALTH CARE AGENT

PART ONE will be effective even if PART TWO is not completed. If you do not wish to appoint an agent, do not complete PART TWO. A provider who is directly involved in your health care or any employee of that provider may not serve as your mental health care agent unless such employee is your family member, friend, or associate and is not directly involved in your health care. An employee of the Department of Behavioral Health and Developmental Disabilities or of a local public mental health agency or of any organization that contracts with a local public mental health authority may not serve as your mental health care agent unless such person is your family member, friend, or associate and is not directly involved in your health care. If you are married, a future divorce or annulment of your marriage will revoke the selection of your current spouse as your mental health care agent unless you indicate otherwise in Section (10) of this PART. If you are not married, a future marriage will revoke the selection of your mental health care agent unless the person you selected as your mental health care agent is your new spouse.

6) MENTAL HEALTH CARE AGENT

I select the following person as my mental health care agent to make mental health care decisions for me:

Name: ________________________________
Address: ______________________________________________________________

Telephone Numbers: _____________________________________________________
(Home, Work, and Mobile)

Agent's Acceptance: I have read this form, and I certify that I do not, have not, and will
not provide mental health care and treatment for: (your name) ____________________

I accept the designation as agent for: (your name) _____________________________
(Agent's signature and date)

(7) BACK-UP MENTAL HEALTH CARE AGENT

[This section is optional. PART TWO will be effective even if this section is left blank.]

If my mental health care agent cannot be contacted in a reasonable time period and
cannot be located with reasonable efforts or for any reason my mental health care agent
is unavailable or unable or unwilling to act as my mental health care agent, then I select
the following, each to act successively in the order named, as my back-up mental health
care agent(s):

Name: ___________________________________________________________________

Address: __________________________________________________________________

Telephone Numbers: _____________________________________________________
(Home, Work, and Mobile)

Back-up Agent's Acceptance: I have read this form, and I certify that I do not, have
not, and will not provide mental health care and treatment for: (your name) ______________

I accept the designation as agent for: (your name) _____________________________
(Back-up agent's signature and date)

Name: ___________________________________________________________________

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Address: _______________________________________________________________

Telephone Numbers: _____________________________________________________

(Home, Work, and Mobile)

Back-up Agent's Acceptance: I have read this form, and I certify that I do not, have
not, and will not provide mental health care and treatment for: (your name)
____________________________________

I accept the designation as agent for: (your name) _____________________________

(Back-up agent's signature and date)

(8) GENERAL POWERS OF MENTAL HEALTH CARE AGENT

My mental health care agent will make mental health care decisions for me when I have
been determined in the opinion of a physician or licensed psychologist who has
personally examined me, or in the opinion of a court, to lack the capacity to understand
the risks and benefits of, and the alternatives to, a mental health care treatment decision
under consideration and I am unable to give or communicate rational reasons for my
mental health care decisions because of impaired thinking, impaired ability to receive and
evaluate information, or other cognitive disability.

My mental health care agent will have the same authority to make any mental health care
decision that I could make. My mental health care agent's authority includes, for
example, the power to:

• Request and consent to admission or discharge from any facility;
• Request, consent to, authorize, or withdraw consent to any type of provider or mental
  health care that is consistent with my instructions in PART ONE of this form and
  subject to the limitations set forth in Section (4) of PART ONE; and
Contract for any health care facility or service for me, and to obligate me to pay for these services (and my mental health care agent will not be financially liable for any services or care contracted for me or on my behalf).

My mental health care agent will be my personal representative for all purposes of federal or state law related to privacy of medical records (including the Health Insurance Portability and Accountability Act of 1996) and will have the same access to my medical records that I have and can disclose the contents of my medical records to others for my ongoing mental health care.

My mental health care agent may accompany me in an ambulance or air ambulance if in the opinion of the ambulance personnel protocol permits a passenger, and my mental health care agent may visit or consult with me in person while I am in a facility if its protocol permits visitation.

My mental health care agent may present a copy of this psychiatric advance directive in lieu of the original, and the copy will have the same meaning and effect as the original.

I understand that under Georgia law:

- My mental health care agent may refuse to act as my mental health care agent; and
- A court can take away the powers of my mental health care agent if it finds that my mental health care agent is not acting in accordance with this directive.

(9) GUIDANCE FOR MENTAL HEALTH CARE AGENT

In the event my directive is being used, my agent should first look at my instructions as expressed in PART ONE. If a situation occurs for which I have not expressed a preference, or in the event my preference is not available, my mental health care agent

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should think about what action would be consistent with past conversations we have had, my treatment preferences as expressed in PART ONE, my religious and other beliefs and values, and how I have handled medical and other important issues in the past. If what I would decide is still unclear, then my mental health care agent should make decisions for me that my mental health care agent believes are in my best interests, considering the benefits, burdens, and risks of my current circumstances and treatment options.

I impose the following limitations on my agent's authority to act on my behalf:

____________________________________________________________________
____________________________________________________________________
____________________________________________________________________

(10) WHEN SPOUSE IS MENTAL HEALTH CARE AGENT AND THERE HAS BEEN A DIVORCE OR ANNULMENT OF OUR MARRIAGE

[Initial if you agree with this statement; leave blank if you do not.]

__________ I desire the person I have named as my agent, who is now my spouse, to remain as my agent even if we become divorced or our marriage is annulled.

PART THREE: OTHER RELATED ISSUES

[PART THREE is optional. This psychiatric advance directive will be effective even if PART THREE is left blank.]

(11) GUIDANCE FOR LAW ENFORCEMENT

I typically react to law enforcement in the following ways:
The following person(s) may be helpful in the event of law enforcement involvement:

Name: ______________________________ Telephone Number: __________________

Relationship: ____________________________________________________________

Name: ______________________________ Telephone Number: __________________

Relationship: ____________________________________________________________

(12) HELP FROM OTHERS

The following people are part of my support system (child care, pet care, getting my mail, paying my bills, etc.) and should be contacted in the event of a crisis:

Name: ______________________________ Telephone Number: __________________

Responsibility: ____________________________________________________________

Name: ______________________________ Telephone Number: __________________

Responsibility: ____________________________________________________________

Name: ______________________________ Telephone Number: __________________

Responsibility: ____________________________________________________________

PART FOUR: EFFECTIVENESS AND SIGNATURES

This psychiatric advance directive will become effective only if I have been determined in the opinion of a physician or licensed psychologist who has personally examined me, or in the opinion of a court, to lack the capacity to understand the risks and benefits of, and the alternatives to, a mental health care decision under consideration and I am unable to give or communicate rational reasons for my mental health care decisions because of

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impaired thinking, impaired ability to receive and evaluate information, or other cognitive
disability.

This form revokes any psychiatric advance directive that I have executed before this date.
To the extent this form is in conflict or is inconsistent with any advance directive for
health care, durable power of attorney for health care, health care proxy, or living will
executed by me at any time, this form shall control with respect to my mental health care.

Unless I have initialed below and have provided alternative future dates or events, this
psychiatric advance directive will become effective at the time I sign it and will remain
effective until my death.

__________ (Initials) This psychiatric advance directive will become effective on or
upon (date) ________________ and will terminate on or upon (date) ________________.

[You must sign and date or acknowledge signing and dating this form in the presence of
two witnesses.
Both witnesses must be of sound mind and must be at least 18 years of age, but the
witnesses do not have to be together or present with you when you sign this form.
A witness:

•Cannot be a person who was selected to be your mental health care agent or back-up
mental health care agent in PART TWO; 
•Cannot be a provider who is providing mental health care to you at the time you
execute this directive or an employee of such provider unless the witness is your family
member, friend, or associate and is not directly involved in your mental health care; 
and
Cannot be an employee of the Department of Behavioral Health and Developmental Disabilities or of a local public mental health agency or of any organization that contracts with a local public mental health authority unless the witness is your family member, friend, or associate and is not directly involved in your mental health care.

By signing below, I state that I am of sound mind and capable of making this psychiatric advance directive and that I understand its purpose and effect.

(Signature of Declarant) (Date)

The declarant signed this form in my presence or acknowledged signing this form to me. Based upon my personal observation, the declarant appeared to be of sound mind and mentally capable of making this psychiatric advance directive and signed this form willingly and voluntarily.

(Signature of First Witness) (Date)

Print Name: _____________________________________________________________
Address:  _______________________________________________________________

(Signature of Second Witness) (Date)

Print Name: _____________________________________________________________
Address:  _______________________________________________________________

[This form does not need to be notarized.]
PART II

SECTION 2-1.

Title 10 of the Official Code of Georgia Annotated, relating to commerce and trade, is amended by revising Code Section 10-6B-3, relating to applicability of the 'Georgia Power of Attorney Act,' as follows:

"10-6B-3.

This chapter shall apply to all powers of attorney except:

1. A power to the extent it is coupled with an interest in the subject of the power, including a power given to or for the benefit of a creditor in connection with a credit transaction;

2. A power to make health care decisions, including but limited to, mental health care decisions;

3. Any delegation of voting, management, or similar rights related to the governance or administration of an entity or business, including, but not limited to, delegation of voting or management rights;

4. A power created on a form prescribed by a government or governmental subdivision, agency, or instrumentality for a governmental purpose;

5. A power created by a person other than an individual;

6. A power that grants authority with respect to a single transaction or series of related transactions involving real estate;

7. A power given to a transfer agent to facilitate a specific transfer or disposition of one or more identified stocks, bonds, or other financial instruments;

8. A power authorizing a financial institution or broker-dealer, or an employee of the financial institution or broker-dealer, to act as agent for the account owner in executing trades or transfers of cash, securities, commodities, or other financial assets in the regular course of business;
(9) Powers of attorney provided for under Titles 19 and 33; and
(10) As set forth in Code Section 10-6B-81."

SECTION 2-2.
Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is amended in Code Section 16-5-5, relating to assisted suicide and notification of licensing board regarding violation, by revising paragraphs (3) and (4) of subsection (c) as follows:
"(3) Any person prescribing, dispensing, or administering medications or medical procedures pursuant to, without limitation, a living will, a durable power of attorney for health care, an advance directive for health care, a psychiatric advance directive, a Physician Orders for Life-Sustaining Treatment form pursuant to Code Section 31-1-14, or a consent pursuant to Code Section 29-4-18 or 31-9-2 when such actions are calculated or intended to relieve or prevent a patient's pain or discomfort but are not calculated or intended to cause such patient's death, even if the medication or medical procedure may have the effect of hastening or increasing the risk of death;
(4) Any person discontinuing, withholding, or withdrawing medications, medical procedures, nourishment, or hydration pursuant to, without limitation, a living will, a durable power of attorney for health care, an advance directive for health care, a psychiatric advance directive, a Physician Orders for Life-Sustaining Treatment form pursuant to Code Section 31-1-14, a consent pursuant to Code Section 29-4-18 or 31-9-2, or a written order not to resuscitate; or"

SECTION 2-3.
Said title is further amended in Code Section 16-5-101, relating to neglect to a disabled adult, elder person, or resident, by revising subsection (b) as follows:
"(b) The provisions of this Code section shall not apply to a physician nor any person acting under a physician's direction nor to a hospital, hospice, or long-term care facility,
nor any agent or employee thereof who is in good faith acting within the scope of his or her employment or agency or who is acting in good faith in accordance with a living will, a durable power of attorney for health care, an advance directive for health care, a psychiatric advance directive, a Physician Orders for Life-Sustaining Treatment form pursuant to Code Section 31-1-14, an order not to resuscitate, or the instructions of the patient or the patient's lawful surrogate decision maker, nor shall the provisions of this Code section require any physician, any institution licensed in accordance with Chapter 7 of Title 31, or any employee or agent thereof to provide essential services or shelter to any person in the absence of another legal obligation to do so."

SECTION 2-4.

Said title is further amended in Code Section 16-5-102.1, relating to trafficking of a disabled adult, elder person, or resident, by revising subsection (f) as follows:

"(f) This Code section shall not apply to a physician nor any person acting under a physician's direction nor to a hospital, hospice, or long-term care facility, nor any agent or employee thereof who is in good faith acting within the scope of his or her employment or agency or who is acting in good faith in accordance with a living will, a durable power of attorney for health care, an advance directive for health care, a psychiatric advance directive, a Physician Orders for Life-Sustaining Treatment form pursuant to Code Section 31-1-14, an order not to resuscitate, or the instructions of the patient or the patient's lawful surrogate decision maker."

SECTION 2-5.

Title 19 of the Official Code of Georgia Annotated, relating to domestic relations, is amended in Code Section 19-8-23, relating to where records of adoption are kept, examination by parties and attorneys, and use of information by agency and department, by revising paragraph (1) of subsection (d) as follows:

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"(d)(1) Upon the request of a party at interest in the adoption, a child, legal guardian, or health care agent, or mental health care agent of an adopted individual or a provider of medical services to such a party, child, legal guardian, or health care agent, or mental health care agent when certain information would assist in the provision of medical care, a medical emergency, or medical diagnosis or treatment, the department or child-placing agency shall access its own records on finalized adoptions for the purpose of adding subsequently obtained medical information or releasing nonidentifying medical and health history information contained in its records pertaining to an adopted individual or the biological parents or relatives of the biological parents of the adopted individual. For purposes of this paragraph, the term 'health care agent' shall have the meaning provided by Code Section 31-32-2 and the term 'mental health care agent' shall have the meaning provided by Code Section 37-11-3."

SECTION 2-6.

Title 29 of the Official Code of Georgia Annotated, relating to guardian and ward, is amended in Code Section 29-4-10, relating to petition for appointment of guardian and requirements for petition, by revising paragraph (6) of subsection (b) as follows:

"(6) Whether, to the petitioner's knowledge, there exists any living will, durable power of attorney for health care, advance directive for health care, psychiatric advance directive, order relating to cardiopulmonary resuscitation, or other instrument that deals with the management of the person of the proposed ward in the event of incapacity and the name and address of any fiduciary or agent named in the instrument;"

SECTION 2-7.

Said title is further amended in Code Section 29-4-21, relating to rights and privileges removed from ward upon appointment of guardian, by revising subsection (b) as follows:
(b) The mere appointment of a guardian does not revoke the powers of an agent who was previously appointed by the ward to act as an agent under a durable power of attorney for health care, or health care agent under an advance directive for health care, or a mental health care agent under a psychiatric advance directive."

SECTION 2-8.

Said title is further amended in Code Section 29-5-21, relating to rights and powers removed from ward upon appointment of conservator, by revising subsection (b) as follows:

"(b) The mere appointment of a conservator does not revoke the powers of an agent who was previously appointed by the ward to act as the ward's agent under a durable power of attorney for health care, or health care agent under an advance directive for health care, or mental health care agent under a psychiatric advance directive."

SECTION 2-9.

Title 31 of the Official Code of Georgia Annotated, relating to health, is amended in Code Section 31-8-55, relating to entry and investigative authority, cooperation of government agencies, and communication with residents, by revising subsection (b) as follows:

"(b) The state ombudsman or community ombudsman shall have the authority to enter any long-term care facility and shall use his or her best efforts to enter such facility during normal visiting hours. Upon entering the long-term care facility, the ombudsman shall notify the administrator or, in the absence of the administrator, the person in charge of the facility, before speaking to any residents. After notifying the administrator or the person in charge of the facility, the ombudsman may communicate privately and confidentially with residents of the facility, individually or in groups. The ombudsman shall have access to the medical and social records of any resident if:

(1) The ombudsman has the permission of the resident or the legal representative or guardian of the resident;
(2) The resident is unable to consent to the review and has no legal representative or guardian; or
(3) There is a guardian of the person of the resident and that guardian refuses to permit access to the records necessary to investigate a complaint, and:
   (A) There is reasonable cause to believe that the guardian is not acting in the best interests of the resident; and
   (B) A community ombudsman obtains the approval of the state ombudsman.

As used in this Code section, the term 'legal representative' means an agent under a valid power of attorney, provided that the agent is acting within the scope of his or her agency; an agent under a durable power of attorney for health care or health care agent under an advance directive for health care; a mental health care agent under a psychiatric advance directive; or an executor, executrix, administrator, or administratrix of the estate of a deceased resident. The ombudsman shall have the authority to inspect the physical plant and have access to the administrative records, policies, and documents of the facility to which the residents have or the general public has access. Entry and investigation provided by this Code section shall be conducted in a manner which will not significantly disrupt the provision of nursing or other care to residents.”

SECTION 2-10.

Said title is further amended in Code Section 31-9-2, relating to persons authorized to consent to surgical or medical treatment, by revising paragraphs (1) and (1.1) of subsection (a) as follows:

"(1) Any adult, for himself or herself, whether by living will, advance directive for health care, psychiatric advance directive under Chapter 11 of Title 37, or otherwise;
(1.1) Any person authorized to give such consent for the adult under an advance directive for health care or durable power of attorney for health care under Chapter 32 of this title or psychiatric advance directive under Chapter 11 of Title 37,”

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SECTION 2-11.

Said title is further amended in Code Section 31-32-2, relating to definitions relative to the "Georgia Advance Directive for Health Care Act," by adding new paragraphs to read as follows:

"(10.1) 'Mental health care' shall have the same meaning as in Code Section 37-11-3.

(10.2) 'Mental health care agent' means an agent appointed under a psychiatric advance directive in accordance with Chapter 11 of Title 37."

"(12.1) 'Psychiatric advance directive' means a written document voluntarily executed by an individual in accordance with the requirements of Code Section 37-11-9."

SECTION 2-12.

Said title is further amended in Code Section 31-32-4, relating to the advance directive for health care form, by revising paragraph (3) of PART ONE of the form as follows:

"(3) GENERAL POWERS OF HEALTH CARE AGENT

My health care agent will make health care decisions for me when I am unable to communicate my health care decisions or I choose to have my health care agent communicate my health care decisions.

My health care agent will have the same authority to make any health care decision that I could make. My health care agent's authority includes, for example, the power to:

• Admit me to or discharge me from any hospital, skilled nursing facility, hospice, or other health care facility or service;

• Request, consent to, withdraw, or withhold any type of health care; and

• Contract for any health care facility or service for me, and to obligate me to pay for these services (and my health care agent will not be financially liable for any services or care contracted for me or on my behalf)."
My health care agent will be my personal representative for all purposes of federal or state law related to privacy of medical records (including the Health Insurance Portability and Accountability Act of 1996) and will have the same access to my medical records that I have and can disclose the contents of my medical records to others for my ongoing health care.

My health care agent may accompany me in an ambulance or air ambulance if in the opinion of the ambulance personnel protocol permits a passenger, and my health care agent may visit or consult with me in person while I am in a hospital, skilled nursing facility, hospice, or other health care facility or service if its protocol permits visitation.

My health care agent may present a copy of this advance directive for health care in lieu of the original, and the copy will have the same meaning and effect as the original.

I understand that under Georgia law:

- My health care agent may refuse to act as my health care agent;
- A court can take away the powers of my health care agent if it finds that my health care agent is not acting properly; and
- My health care agent does not have the power to make health care decisions for me regarding psychosurgery, sterilization, or treatment or involuntary hospitalization or involuntary treatment for mental or emotional illness, developmental disability, or addictive disease.

- My health care agent does not have the power to make health care decisions that are otherwise covered under a psychiatric advance directive that I have executed pursuant to Chapter 11 of Title 37 of the Official Code of Georgia Annotated, including decisions related to treatment or hospitalization for mental or emotional illness, developmental disability, or addictive disease.”
SECTION 2-13.
Said title is further amended in Code Section 31-32-7, relating to duties and responsibilities of health care agents, by revising paragraph (1) of subsection (e) and by adding a new subsection to read as follows:

"(1) The health care agent is authorized to consent to and authorize or refuse, or to withhold or withdraw consent to, any and all types of medical care, treatment, or procedures relating to the physical or mental health of the declarant, including any medication program, surgical procedures, life-sustaining procedures, or provision of nourishment or hydration for the declarant, but not including psychosurgery, sterilization, or involuntary hospitalization or involuntary treatment covered by Title 37;"

"(g) With respect to mental health care, the duties and responsibilities of a health care agent under this chapter shall be subordinate to the duties and responsibilities of a mental health care agent under Chapter 11 of Title 37 and subject to the terms of a psychiatric advance directive executed by the declarant before, simultaneously with, or after the advance directive for health care under which the health care agent is acting."

SECTION 2-14.
Said title is further amended in Code Section 31-32-10, relating to immunity from liability or disciplinary action, by revising subsection (a) by deleting "and" at the end of paragraph (4), by replacing the period with "; and" at the end of paragraph (5), and by adding a new paragraph to read as follows:

"(6) In the event a declarant has appointed a mental health care agent, no health care provider, health care facility, or person who relies in good faith on the direction of such mental health care agent shall be subject to civil or criminal liability or discipline for unprofessional conduct for complying with any direction or decision of such mental health care agent in the event the declarant's condition is subsequently determined to be a non-mental health care related condition."

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SECTION 2-15.

Said title is further amended in Code Section 31-32-12, relating to restriction on requiring and preparing advance directives for health care, by revising subsection (b) as follows:

"(b) No health care facility shall only be authorized to prepare or offer to prepare an advance directive for health care unless specifically requested to do so by a person desiring to execute an advance directive for health care or, if such health care facility's offer is not coercive in nature and such person consents to such offer. For purposes of this subsection, the Department of Corrections shall not be deemed to be a health care facility."

SECTION 2-16.

Said title is further amended in Code Section 31-32-14, relating to effect of chapter on other legal rights and duties, by adding a new subsection to read as follows:

"(g) With respect to mental health care, nothing in this chapter shall supersede the duties and responsibilities of a mental health care agent under Chapter 11 of Title 37 or the terms of a psychiatric advance directive executed by the declarant before, simultaneously with, or after the advance directive for health care under which the health care agent is acting."

SECTION 2-17.

Said title is further amended in Code Section 31-33-2, relating to furnishing copy of records to patient, provider, or other authorized person, by revising paragraph (2) of subsection (a) as follows:

"(2) Upon written request from the patient or a person authorized to have access to the patient's record under an advance directive for health care, a psychiatric advance directive, or a durable power of attorney for health care for such patient, the provider having custody and control of the patient's record shall furnish a complete and current copy of that record, in accordance with the provisions of this Code section. If the patient is deceased, such request may be made by the following persons:

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(A) The executor, administrator, or temporary administrator for the decedent's estate if such person has been appointed;
(B) If an executor, administrator, or temporary administrator for the decedent's estate has not been appointed, by the surviving spouse;
(C) If there is no surviving spouse, by any surviving child; and
(D) If there is no surviving child, by any parent."

SECTION 2-18.

Said title is further amended in Code Section 31-36A-3, relating to definitions relative to the "Temporary Health Care Placement Decision Maker for an Adult Act," by adding a new paragraph to read as follows:

"(1.1) 'Psychiatric advance directive' means a written document voluntarily executed by an individual in accordance with the requirements of Code Section 37-11-9."

SECTION 2-19.

Said title is further amended in Code Section 31-36A-6, relating to persons authorized to consent, expiration of authorization, limitations on authority to consent, effect on other laws, and immunity from liability or disciplinary action, by revising paragraph (2) of subsection (a) as follows:

"(2) Any person authorized to give such consent for the adult under an advance directive for health care, psychiatric advance directive, or durable power of attorney for health care under Chapter 32 of this title;"

SECTION 2-20.

Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended in Code Section 37-1-1, relating to definitions relative to governing and regulation of mental health, by adding new paragraphs to read as follows:
"(11.1) 'Mental health care agent' means an agent appointed under a psychiatric advance
directive in accordance with Chapter 11 of Title 37."

"(16.1) 'Psychiatric advance directive' means a written document voluntarily executed
by an individual in accordance with the requirements of Code Section 37-11-9."

SECTION 2-21.

Said title is further amended in Code Section 37-1-20, relating to obligations of the
Department of Behavioral Health and Developmental Disabilities, by revising paragraph (18)
as follows:

"(18) Classify host homes for persons whose services are financially supported, in whole
or in part, by funds authorized through the department. As used in this Code section, the
term 'host home' means a private residence in a residential area in which the occupant
owner or lessee provides housing and provides or arranges for the provision of food, one
or more personal services, supports, care, or treatment exclusively for one or two persons
who are not related to the occupant owner or lessee by blood or marriage. A host home
shall be occupied by the owner or lessee, who shall not be an employee of the same
community provider which provides the host home services by contract with the
department. The department shall approve and enter into agreements with community
providers which, in turn, shall contract with host homes. The occupant owner or lessee
shall not be the guardian of any person served, the conservator of the property of such
person, or of their property nor the health care agent in such person's advance directive
for health care, nor the mental health care agent in such person's psychiatric advance
directive. The placement determination for each person placed in a host home shall be
made according to such person's choice as well as the individual needs of such person in
accordance with the requirements of Code Section 37-3-162, 37-4-122, or 37-7-162, as
applicable to such person;"
SECTION 2-22.

Said title is further amended in Code Section 37-2-30, relating to definitions relative to the Office of Disability Services Ombudsman, by revising paragraph (7) and by adding a new paragraph, to read as follows:

"(7) 'Health care agent' means an agent under a durable power of attorney for health care, a health care agent under an advance directive for health care, or a mental health care agent under a psychiatric advance directive."

"(9.1) 'Psychiatric advance directive' means a written document voluntarily executed by a patient in accordance with the requirements of Code Section 37-11-9."

SECTION 2-23.

Said title is further amended by revising Code Section 37-3-20, relating to admission of voluntary patients, consent of parent or guardian to treatment, and giving notice of rights to patient at time of admission, as follows:

"37-3-20.

(a) The chief medical officer of any facility may receive for observation and diagnosis any patient 12 years of age or older making application therefor, any patient under 18 years of age for whom such application is made by his or her parent or guardian, any patient who has a psychiatric advance directive and for whom such application is made by his or her mental health care agent, and any patient who has been declared legally incompetent and for whom such application is made by his or her guardian. If found to show evidence of mental illness and to be suitable for treatment, such person may be given care and treatment at such facility; and such person may be detained by such facility until discharged pursuant to Code Section 37-3-21 or 37-3-22. The parents or guardian of a minor child must give written consent to such treatment. An individualized service plan shall be developed for such person as soon as possible.
(b) Any individual voluntarily admitted to a facility under this Code section shall be given notice of his or her rights under this chapter at the time of his admission."

SECTION 2-24.

Said title is further amended by revising Code Section 37-3-147, relating to representatives and guardians ad litem, notification provisions, and duration and scope of guardianship ad litem, as follows:

"37-3-147.

(a) At the time a person who has mental illness is admitted to any facility under this chapter or as soon thereafter as reasonably possible given the person's condition or mental state at the time of admission, such facility shall use diligent efforts to secure the names and addresses of at least two representatives, which names and addresses shall be entered in the person's clinical record.

(b) The patient may designate one representative; the second representative or, in the absence of designation of one representative by the patient, both representatives shall be selected by the facility. If the facility is to select both representatives, it must make one selection from among the following persons in the order of listing: the patient's mental health care agent, legal guardian, spouse, adult child, parent, attorney, adult next of kin, or adult friend, provided that, in the case of a patient whose representative or representatives have been appointed by the court under Code Section 37-3-62, the facility shall not select a different representative. The second representative shall also be selected from the above list but without regard to the order of listing, provided that the second representative shall not be the person who filed the petition to have the patient admitted to the facility.

(c) If the facility is unable to secure at least two representatives after diligent search or if the department is the guardian of the patient, that fact shall be entered in the patient's clinical record and the facility shall apply to the court in the county of the patient's residence for the appointment of a guardian ad litem, which guardian ad litem shall not be
the department. On application of any person or on its own motion, the court may also
appoint a guardian ad litem for a patient for whom two representatives have been named
whenever the appointment of a guardian ad litem is deemed necessary for protection of the
patient's rights. Such guardian ad litem shall also act as representative of the patient and
shall have the powers granted to representatives by this chapter.

(d) At any time notice is required by this chapter to be given to the patient's
representatives, such notice shall be served on the representatives designated under this
Code section. The patient's guardian ad litem, if any, shall likewise be served. Unless
otherwise provided, notice may be served in person or by first-class mail. When notice is
served by mail, a record shall be made of the date of mailing and shall be placed in the
patient's clinical record. Service shall be completed upon mailing.

(e) At any time notice is required by this chapter to be given to the patient, the date on
which notice is given shall be entered on the patient's clinical record. If the patient is
unable to comprehend the written notice, a reasonable effort shall be made to explain the
notice to him or her.

(f) At the time a court enters an order pursuant to this chapter, such order and notice of the
date of entry of the order shall be served on the patient and his or her representatives as
provided in subsection (d) of this Code section.

(g) Notice of an involuntary patient's admission to a facility shall be given to his or her
representatives in writing. If such involuntary admission is to an emergency receiving
facility, notice shall also be given by that facility to the patient's representatives by
telephone or in person as soon as possible.

(h) In every instance in which a court shall appoint a guardian ad litem for any person
pursuant to the terms of this chapter, such guardianship shall be for the limited purpose
stated in the order of the court and shall expire automatically after 90 days or after a lesser
time stated in the order. The responsibility of the guardian ad litem shall not extend
beyond the specific purpose of the appointment."
SECTION 2-25.

Said title is further amended in Code Section 37-3-148, relating to right of patients or representatives to petition for writ of habeas corpus and for judicial protection of rights and privileges granted by this chapter, by revising subsection (a) as follows:

"(a) At any time and without notice, a person detained by a facility or a mental health care agent, legal guardian, relative, or friend on behalf of such person may petition, as provided by law, for a writ of habeas corpus to question the cause and legality of detention and to request any court of competent jurisdiction on its own initiative to issue a writ for release, provided that, in the case of any such petition for the release of a person detained in a facility pursuant to a court order under Code Section 17-7-130 or 17-7-131, a copy of the petition along with proper certificate of service shall also be served upon the presiding judge of the court ordering such detention and the prosecuting attorney for such court, which service may be made by certified mail or statutory overnight delivery, return receipt requested."

SECTION 2-26.

Said title is further amended by revising Code Section 37-4-107, relating to appointment of client representatives and guardians ad litem, notification provisions, and duration and scope of guardianship ad litem, as follows:

"37-4-107.

(a) At the time a client is admitted to any facility under this chapter, that facility shall make diligent efforts to secure the names and addresses of at least two representatives, which names and addresses shall be entered in the client's clinical record.

(b) The client may designate one representative; the second representative or, in the absence of designation of one representative by the client, both representatives shall be selected by the facility. If the facility is to select both representatives, it must make one selection from among the following persons in the order of listing: the client's mental
health care agent, legal guardian, spouse, adult child, parent, attorney, adult next of kin, or adult friend. The second representative shall also be selected from the above list but without regard to the order of listing, provided that the second representative shall not be the person who filed the petition seeking an order for the client to receive services from the department.

(c) If the facility is unable to secure at least two representatives after diligent search or if the department is the guardian of the client, that fact shall be entered in the client's clinical record and the facility shall apply to the court in the county of the client's residence for the appointment of a guardian ad litem, which guardian ad litem shall not be the department. On application of any person or on its own motion, the court may also appoint a guardian ad litem for a client for whom two representatives have been named whenever the appointment of a guardian ad litem is deemed necessary for protection of the client's rights. Such guardian ad litem shall act as representative of the client on whom notice is to be served under this chapter and shall have the powers granted to representatives by this chapter.

(d) At any time notice is required by this chapter to be given to the client's representatives, such notice shall be served on the representatives designated under this Code section. The client's guardian ad litem, if any, shall likewise be served. Unless otherwise provided, notice may be served in person or by first-class mail. When notice is served by mail, a record shall be made of the date of mailing and shall be placed in the client's clinical record. Service shall be completed upon mailing.

(e) At any time notice is required by this chapter to be given to the client, the date on which notice is given shall be entered on the client's clinical record. If the client is unable to comprehend a written notice, a reasonable effort shall be made to explain the notice to him or her.
(f) At the time a court enters an order pursuant to this chapter, such order and notice of the date of entry of the order shall be served on the client and his or her representatives as provided in subsection (d) of this Code section.

(g) Notice of a client's admission to a facility shall be given to his or her representatives in writing.

(h) In every instance in which a court shall appoint a guardian ad litem for any person pursuant to the terms of this chapter, such guardianship shall be for the limited purpose stated in the order of the court and shall expire automatically after 90 days or after a lesser time stated in the order. The responsibility of the guardian ad litem shall not extend beyond the specific purpose of the appointment."

SECTION 2-27.

Said title is further amended in Code Section 37-4-108, relating to right of clients or representatives to petition for writ of habeas corpus and for judicial protection of rights and privileges granted by chapter, by revising subsection (a) as follows:

"(a) At any time and without notice, a person detained by a facility or a mental health care agent, legal guardian, relative, or friend on behalf of such person may petition as provided by law for a writ of habeas corpus to question the cause and legality of detention and to request any court of competent jurisdiction on its own initiative to issue a writ for release, provided that in the case of any such petition for the release of a person detained in a facility pursuant to a court order under Code Section 17-7-130 or 17-7-131, a copy of the petition, along with proper certificate of service, shall also be served upon the presiding judge of the court ordering such detention and the prosecuting attorney for such court, which service may be made by certified mail or statutory overnight delivery, return receipt requested."
SECTION 2-28.

Said title is further amended by revising Code Section 37-7-147, relating to appointment of patient representatives and guardians ad litem, notice provisions, and duration and scope of guardianship ad litem, as follows:

"37-7-147.

(a) At the time a patient is admitted to any facility under this chapter, that facility shall use diligent efforts to secure the names and addresses of at least two representatives, which names and addresses shall be entered in the patient's clinical record.

(b) The patient may designate one representative; the second representative or, in the absence of designation of one representative by the patient, both representatives shall be selected by the facility. If the facility is to select both representatives, it must make one selection from among the following persons in the order of listing: the patient's mental health care agent, legal guardian, spouse, adult child, parent, attorney, adult next of kin, or adult friend, provided that, in the case of a patient whose representative or representatives have been appointed by the court under Code Section 37-7-62, the facility shall not select a different representative. The second representative shall also be selected from the above list but without regard to the order of listing, provided that the second representative shall not be the person who filed the petition to have the patient admitted to the facility.

(c) If the facility is unable to secure at least two representatives after diligent search or if the department is the guardian of the patient, that fact shall be entered in the patient's clinical record and the facility shall apply to the court in the county of the patient's residence for the appointment of a guardian ad litem, which guardian ad litem shall not be the department. On application of any person or on its own motion, the court may also appoint a guardian ad litem for a patient for whom two representatives have been named whenever the appointment of a guardian ad litem is deemed necessary for protection of the patient's rights. Such guardian ad litem shall also act as representative of the patient and shall have the powers granted to representatives by this chapter.
(d) At any time notice is required by this chapter to be given to the patient's representatives, such notice shall be served on the representatives designated under this Code section. The patient's guardian ad litem, if any, shall likewise be served. Unless otherwise provided, notice may be served in person or by first-class mail. When notice is served by mail, a record shall be made of the date of mailing and shall be placed in the patient's clinical record. Service shall be completed upon mailing.

(e) At any time notice is required by this chapter to be given to the patient, the date on which notice is given shall be entered on the patient's clinical record. If the patient is unable to comprehend the written notice, a reasonable effort shall be made to explain the notice to him or her.

(f) At the time a court enters an order pursuant to this chapter, such order and notice of the date of entry of the order shall be served on the patient and his or her representatives as provided in subsection (d) of this Code section.

(g) Notice of an involuntary patient's admission to a facility shall be given to his or her representatives in writing. If such involuntary admission is to an emergency receiving facility, notice shall also be given by that facility to the patient's representatives by telephone or in person as soon as possible.

(h) In every instance in which a court shall appoint a guardian ad litem for any person pursuant to the terms of this chapter, such guardianship shall be for the limited purpose stated in the order of the court and shall expire automatically after 90 days or after a lesser time stated in the order. The responsibility of the guardian ad litem shall not extend beyond the specific purpose of the appointment."

SECTION 2-29.

Said title is further amended by revising Code Section 37-7-148, relating to rights of patients or representatives to petition for writ of habeas corpus and for judicial protection of rights and privileges granted by this chapter, as follows:

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(a) At any time and without notice, a person detained by a facility, a mental health care agent named in such person's psychiatric advance directive, a legal guardian of such person, or a relative or friend on behalf of such person may petition, as provided by law, for a writ of habeas corpus to question the cause and legality of detention and to request any court of competent jurisdiction on its own initiative to issue a writ for release, provided that, in the case of any such petition for the release of a person detained in a facility pursuant to a court order under Code Section 17-7-130 or 17-7-131, a copy of the petition along with proper certificate of service shall also be served upon the presiding judge of the court ordering such detention and the prosecuting attorney for such court, which service may be made by certified mail or statutory overnight delivery, return receipt requested.

(b) A patient or his or her representatives may file a petition in the appropriate court alleging that the patient is being unjustly denied a right or privilege granted by this chapter or that a procedure authorized by this chapter is being abused. Upon the filing of such a petition, the court shall have the authority to conduct a judicial inquiry and to issue appropriate orders to correct any abuse under this chapter."

SECTION 2-30.

Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended in Code Section 49-6-72, relating to definitions relative to the "Georgia Family Caregiver Support Act," by revising paragraph (9) as follows:

"(9) 'Primary caregiver' means the one identified relative or other person in a relationship of responsibility, such as an agent under a valid durable power of attorney for health care, a health care agent under a valid advance directive for health care, or a mental health care agent under a valid psychiatric advance directive, who has assumed the primary responsibility for the provision of care needed to maintain the physical or mental health of a functionally dependent older adult or other adult suffering from dementia, who lives
in the same residence with such individual, and who does not receive financial compensation for the care provided. A substantiated case of abuse, neglect, or exploitation, as defined in Chapter 5 of Title 30, the 'Disabled Adults and Elder Persons Protection Act,' or pursuant to any other civil or criminal statute regarding an older adult, shall prohibit a primary caregiver from receiving benefits under this article unless authorized by the department to prevent further abuse."

SECTION 2-31.

Said title is further amended in Code Section 49-6-82, relating to definitions relative to licensure of adult day centers, by revising paragraph (7) as follows: "(7) 'Primary caregiver' means the one identified relative or other person in a relationship of responsibility, such as an agent under a valid durable power of attorney for health care, a health care agent under a valid advance directive for health care, or a mental health care agent under a valid psychiatric advance directive, who has assumed the primary responsibility for the provision of care needed to maintain the physical or mental health of an aging adult, who lives in the same residence with such individual, and who does not receive financial compensation for the care provided."

PART III

SECTION 3-1.

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