



## **FINAL REPORT OF THE JOINT COMMITTEE ON THE EMERGENCY RELOCATION OF ABUSED ADULTS**

### **COMMITTEE MEMBERS**

**Honorable Renee Unterman**  
Co-Chair  
Senator, District 45

**Honorable Tommy Benton**  
Co-Chair  
Representative, District 31

**Honorable John Albers**  
Senator, District 56

**Honorable Gerald Greene**  
Representative, District 151

**Honorable Nan Orrock**  
Senator, District 36

**Honorable Jan Tankersley**  
Representative, District 160

**Ms. Barbara Baxter**  
Governor's Appointee

**Ms. Pat King**  
Governor's Appointee

**Mr. Greg Tanner**  
Governor's Appointee

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**I. INTRODUCTION**

The Joint Study Committee on the Emergency Relocation of Abused Adults (the “Committee”) was created by Senate Resolution 828 during the 2014 Legislative Session. The Committee was charged with undertaking a study of the conditions, needs, issues, and problems related to the emergency relocation process that stems from the closure of unlicensed personal care homes (PCHs).

Senator Renee Unterman of the 45<sup>th</sup> and Representative Tommy Benton of the 31<sup>st</sup> co-chaired the Committee, which held three public hearings on the following dates and corresponding locations:

- Tuesday, September 2, 2014, at the First United Methodist Church in Lawrenceville, Georgia;
- Tuesday, October 21, 2014, at the Georgia Public Safety Training Center (GPSTC) in Forsyth, Georgia; and
- Thursday, December 11, 2014, at the State Capitol in Atlanta, Georgia.

Senator John Albers of the 56<sup>th</sup>, Senator Nan Orrock of the 36<sup>th</sup>, Representative Gerald Greene of the 151<sup>st</sup>, and Representative Jan Tankersley of the 160<sup>th</sup> served as members of the Committee alongside the following Governor appointees:

- Ms. Barbara Baxter, Woodstock Nursing Home & Rehab Center, Licensed Nursing Home Administrator;
- Ms. Pat King, Department of Human Services (DHS) Division of Aging Services (DAS), Team Leader, Forensic Special Investigation Unit; and
- Mr. Greg Tanner, Georgia Chapter AARP, Director.

Additionally, legislative staff members assigned to the Committee were: Mr. Daniel Besal of the Senate Budget and Evaluation Office; Ms. Jennifer Yarber of the Senate Press Office; Ms. Elizabeth Holcomb of the Senate Research Office; Ms. Roma Amin of the House Budget and Research Office; and Ms. Laurie Sparks, Senate Health and Human Services Committee Secretary and Legislative Assistant to Senator Renee Unterman.

## II. BACKGROUND

PCHs provide housing, food services, personal services including assistance with essential activities of daily living, and limited medication supervision and assistance.<sup>1</sup> PCHs are required to be licensed by the Division of Healthcare Facility Regulation (HFR) within the Department of Community Health (DCH); however, many are operated without proper licensure.<sup>2</sup> It is estimated that there are hundreds of unlicensed PCHs being operated in Georgia. The number of unlicensed PCH complaints in State Fiscal Year (SFY) 2014 totaled 293.

Unfortunately, unlicensed PCHs are where some of the worst abuses of vulnerable, elderly, and disabled adults occur. The motivation behind operating an unlicensed PCH is usually financial; for example, operators will position themselves to steal from residents while those residents are deprived of sufficient food, necessary medications, and locked in rooms lacking basic facilities. The difficulty state officials face in finding these illegal care homes, conducting inspections, and pulling in the resources to shut them down and relocate residents is significant. Some operators are quite sophisticated and maintain one or two licensed facilities that serve as a showcase for prospective residents and families, while running several unlicensed facilities. Once a resident is left without family or frequent visits from the outside, the operator will move the resident to the unlicensed facility.

### Legislation Criminalizing Illegal Operations

In 2012, the Georgia General Assembly passed a law (House Bill 1110) criminalizing the operation of an unlicensed PCH by making a first offense a misdemeanor and a second offense a felony. It also allowed for HFR to immediately impose civil penalties for unlicensed PCHs and gave the Georgia Bureau of Investigation (GBI) the authority to conduct investigations. After proper notice and the opportunity for a hearing, HFR may assess a civil penalty in the amount of \$100 per bed per day for each day of noncompliance with licensing requirements. This fine is doubled if the owner or operator of a PCH continues to operate the unlicensed PCH after receiving notice from HFR. Still, many rogue operators viewed a misdemeanor and civil penalties as simply the price of doing business.

The Georgia General Assembly passed another law during the 2014 Legislative Session (House Bill 899) hoping to engage more law enforcement agencies in tracking down operators of

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<sup>1</sup> Different from nursing homes, PCHs do not manage or provide medical care.

<sup>2</sup> See O.C.G.A. § 31-7-12 for the statutory definition of a PCH, personal services, and licensure and registration provisions.

unlicensed PCHs. The law went into effect on July 1, 2014 and elevates the first offense to a felony where there is a finding of abuse, neglect, or financial exploitation.<sup>3</sup> HFR also has the authority to seek an injunction against an unlicensed PCH that is declared a nuisance dangerous to public health, safety, and welfare.

#### Emergency Relocation Process

Complaints of alleged unlicensed PCHs come through HFR, the agency with authority under Georgia law to determine the licensure status for a PCH and conduct investigations.<sup>4</sup> Depending on the circumstances, the closure of an unlicensed PCH can call for the emergency relocation of residents. Investigations by HFR are unannounced and often coordinated with DHS, Adult Protective Services (APS), Long-Term Care Ombudsman the Department of Behavioral Health and Developmental Disabilities (DBHDD), local law enforcement, and GBI, as needed. It is up to HFR to decide when to activate a relocation team.

HFR is required under Georgia law to provide assistance with resident relocation when:

- It is requested by the resident;
- The operator or staff are arrested or not present and the resident requires care;
- The location is condemned or otherwise closed by law enforcement for noncompliance with Code; or
- It is otherwise deemed necessary.

The time and resources leading up to such emergency relocations is significant. Some raids of unlicensed PCHs and emergency relocations have required up to 70 people, both law enforcement and non-law enforcement personnel. Senate Resolution 828 acknowledged the complexity of the emergency relocation process and called upon the Committee to study topics relating to and leading up to the need for emergency relocations from unlicensed PCHs.

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<sup>3</sup> See O.C.G.A. § 31-7-12.1(g).

<sup>4</sup> See O.C.G.A. § 31-8-83.

### III. MEETING TESTIMONY

#### A. Meeting 1: Tuesday, September 2, 2014

Co-Chairs Senator Unterman and Representative Benton opened the meeting by first acknowledging that monumental steps have already been made in acknowledging problems related to elder abuse and then urging that providers and regulators continue to step up on this issue. They stated that there is still a lot of work that needs to be done, as several policy and appropriations issues have yet to be addressed.

Dr. James Bulot, Director of DHS DAS presented testimony to the Committee that explained how in the past there was no prosecution at all for the illegal operation of PCHs and therefore very little awareness on this issue. He told the Committee that the manner in which illegal PCHs are operated is very similar to human trafficking; many cases involve moving an abused adult from one jurisdiction to another, sometimes across state lines. Additionally, the financial exploitation of the residents in these unlicensed facilities is significant; illegal operators make profits off of residents' Supplemental Security Income, and Veteran's and Medicaid benefits using fraud and identity theft. Dr. Bulot reported that in June of 2014, law enforcement agencies identified three operators who may have stolen more than \$790,000 from residents.

Reflecting on the work that has been done to increase awareness and address abused adult cases over the past four years, Dr. Bulot told the Committee that he and Ms. King started work on this issue in November of 2011 and first met with Mr. Vernon Keenan, GBI Director, in March of 2012. They have found that increasing the education of law enforcement personnel leads to increased reporting of abused adult cases.

Mr. Chuck Spahos, Executive Director of the Prosecuting Attorney's Council (PAC), told the Committee that giant steps have been made regarding elder abuse, however, there is still a lot of work to be done. He provided testimony to the Committee on PAC's participation in the Abuse, Neglect and Exploitation (ANE) Working Group. Led by the GBI, the ANE Working Group consisted of professionals representing state, local, and federal agencies; departments; divisions; and organizations, all of whom are actively involved in the investigation and prosecution of crimes targeting at-risk adults.<sup>5</sup> To increase awareness on the issue in the law enforcement community and provide training on how to prosecute elder abuse cases, PAC has played a major role in creating a state-wide model for prosecutors looking to specialize in the area of elder abuse. Mr. Spahos explained that this model will serve to teach and educate prosecutors in different counties and will be available upon request from any county's district attorney.

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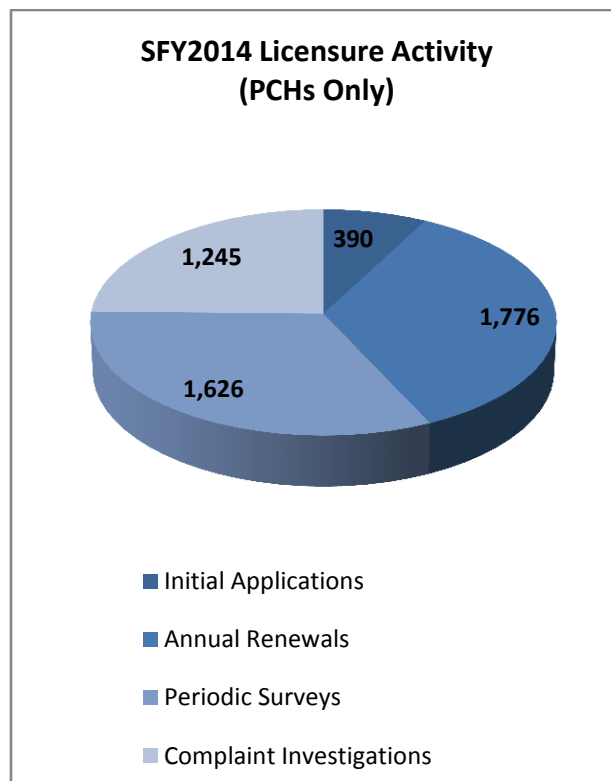
<sup>5</sup> The ANE Working Group has identified issues related to how abuse of the elderly and disabled is prosecuted and recently proposed amendments to the Elder Abuse Modernization and Protection Act, which was created with the passage of House Bill 78 in 2013. "At risk adults" includes adults aged 18 years and older with any disability and adults aged 65 years and older.

Ms. Mary Scruggs, Chief of HFR, presented testimony to the Committee that focused on HFR's response to the issues surrounding investigations of PCHs and emergency relocations of abused adults from unlicensed facilities. HFR provided to the Committee a summary of its licensure activity for SFY2014 for PCHs, which can be found below in Table 1. HFR's PCH staff consists of: (1) a program director; (2) four regional directors; (3) sixteen surveyors; (4) one clerical staff; and (5) two surveyors pending for adult day centers.

Ms. Scruggs explained that these 16 surveyors inspect facilities licensed under HFR and conduct investigations following any complaints for the entire state of Georgia. HFR visits all PCHs in the state, regardless of whether a complaint has been received, at least once a year. On average, HFR receives 1,400 complaints per year in its PCH Program, and 20 percent of these are alleged unlicensed PCH complaints. Once a complaint is substantiated, HFR conducts an unlicensed PCH investigation. Ms. Scruggs told the Committee that 60 staff hours are required for each substantiated unlicensed PCH investigation.

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**Table 1. HFR Staffing and Workload**



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Mr. Vernon Keenan, GBI Director, reminded the Committee that until recent years, law enforcement and other state officials had very little power or incentive to crack down on unlicensed PCHs because there was no punishment for illegal operators and no foster care system for adults once a facility is shut down. Although progress has been made through the

passage of legislation criminalizing the illegal operation of PCHs, Mr. Keenan told the Committee that law enforcement officials are faced with numerous challenges when it comes to taking on such cases.<sup>6</sup> Many unlicensed facilities are hard for law enforcement to spot from the outside because they are in residential neighborhoods or run out of individual homes. In cases where law enforcement has a lead, Mr. Keenan explained that a common tactic among illegal operators is to “leap-frog” ahead of the authorities by relocating to another city or county.

Mr. Keenan told the Committee that while the market for illegal operations has increased with the aging Baby Boomer population, so has Georgia’s awareness of the problem. He added that with increased training and public awareness, the workload on social service agencies also increases. He provided the Committee with a list of identified obstacles, recommendations, and initiatives by the Abuse, Neglect & Exploitation (ANE) Working Group.<sup>7</sup> Summarizing the highpoints of this document, Mr. Keenan stated that the lack of resources and the manpower needed for emergency relocations has called for a need for outreach education and a uniform protocol for the agencies involved. This is why they have focused to create a model protocol for shutting down illegal PCHs and a standard operating procedure for emergency relocations. For emergency relocations, HFR within DCH has assumed the position of lead agency for emergency relocations and is working on developing an initial protocol. Mr. Keenan also informed the Committee that GBI is developing a manual to assist prosecutors in convicting illegal operators, as well as an internet-based training program for law enforcement officers that is specific to unlicensed PCHs.

Next, Dr. Bulot presented to the Committee obstacles that have been identified by DAS. APS participates in PCH relocations and conducts investigations of adult abuse. Under Georgia law, DAS is required to conduct an investigation after it receives a report that a disabled adult or elder person is in need of protective services.<sup>8</sup> Since June 2014, APS has assisted in relocating 55 residents from 10 facilities where 38 APS staff spent 332 hours on planning efforts, on-site interviewing, and post relocation follow-ups. Of these 55 residents that were relocated, 33 cases were opened by APS for investigation because of the need for extended follow-up to ensure client safety. Each case remains active for about 45 days to complete the APS investigation and coordinate resources to meet client needs. See Table 2 below for a chart illustrating APS staffing for investigations from SFY 2011 to SFY 2014.

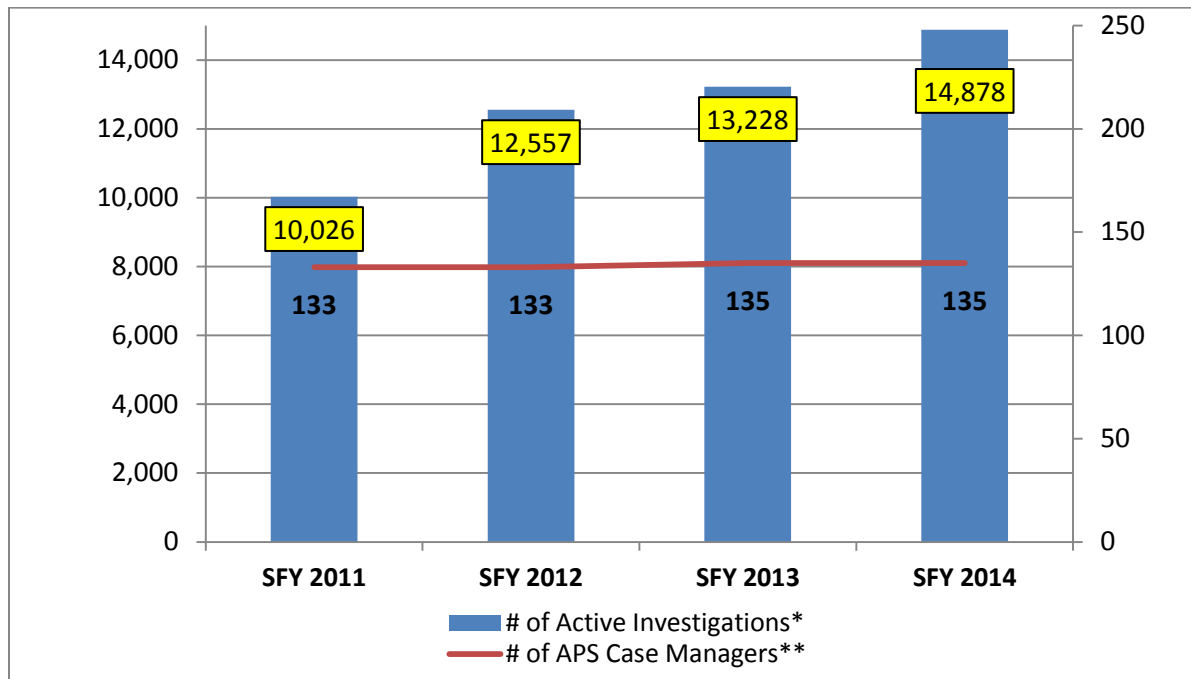
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<sup>6</sup> This legislation was discussed earlier in Background section of this report on page 3.

<sup>7</sup> This list is attached as Exhibit A in the Appendix.

<sup>8</sup> See O.C.G.A. § 30-5-5.

**Table 2. Adult Protective Services (APS) Staffing by Active Investigations SFY 2011-SFY 2014**



\*The number of active investigations is the total number of active investigations during the SFY.

\*\*The number of Case Managers is determined by the number of filled positions as of June of each SFY.

Dr. Bulot told the Committee that for the relocation activity of July and August of 2014, a total of \$18,657 Emergency Relocation dollars were used on 21 clients. He added that another \$4,500 of Temporary Emergency Respite Funds had been used for 15 clients. In SFY15, the General Assembly provided funds for temporary emergency respite placement of abused, neglected, or exploited at-risk adults. State funds totaling \$226,800 were appropriated to Elder Abuse Investigations and Prevention under DHS.

#### **B. Meeting 2: Tuesday, October 21, 2014**

The Committee held its second meeting on October 21, 2014, at the Georgia Public Safety Training Center in Forsyth, Georgia. The meeting coincided with a training event for law enforcement officials titled, "Abuse in Unlicensed Personal Care Homes: Investigation and Prosecution," sponsored by the Georgia Association of Chiefs of Police, GBI, DBHDD, DCH, DHS, DAS, the Georgia Sheriffs' Association, and the Prosecuting Attorneys' Council of Georgia.

Dr. James Bulot of DAS opened the meeting by briefly thanking the Committee for the opportunity to discuss issues related to elder abuse. He then introduced Ms. Mary Scruggs of HFR, who previously provided testimony at the first meeting. Ms. Scruggs told the Committee that HFR licenses more than 10,000 facilities in the state of Georgia, including PCHs. Reminding the Committee that the issue of unlicensed PCHs is not simply a quality of care issue, she



explained that there are predators running PCHs looking to prey on elders using identity fraud, theft, abuse, and exploitation. In 2013, HFR received 300 complaints about PCHs that were substantiated and investigated; 100 of those complaints were later confirmed by HFR to be unlicensed PCHs.

There was a request from the first meeting for HFR to share with the Committee the protocol that outlines the process beginning when a complaint is received and ending with the need to transfer residents through emergency relocations. Due to its volume, the information was provided to the Committee electronically. Agencies partner with one another and work collaboratively, sharing information with each other to make the process as efficient as possible. When asked how long a relocation takes to complete, Ms. Scruggs stated that it is an all-day event and relies heavily on the ability of licensed PCHs in the area to take in residents.

Ms. Scruggs explained to the Committee how HFR shares information with its sister groups and some scenarios may require more deviation from standard protocol than others. For example, sometimes the focus is more on safe placement of residents than the investigation. When HFR arrives onsite, they look at whether: (1) it is safe for the residents to remain at the facility; and (2) the residents are in need of care and what sort of care is present. If relocation is necessary, HFR's first priority is to look into family and friends of the resident and ways to help the resident stay with those persons. If no family or friends are an option, HFR looks at licensed PCHs in the area as alternatives for placement. Representative Benton pointed out that it seems like many of the people who end up in unlicensed PCHs tend to not have relatives.

The Committee asked for clarification on what constitutes a bed for the purposes of calculating penalty amounts for operating an unlicensed PCH after receipt of notice from HFR. Ms. Scruggs explained that the number of beds means the number of people the facility should have beds for. The Committee also asked whether increasing the penalty amount is necessary or whether it is currently on target. HFR told the Committee that the amount seems to be on target.

### **C. Meeting 3: Thursday, December 11, 2014**

The final meeting was held at the State Capitol in Atlanta, Georgia. Ms. Elaine Wright, Director of the PCH Program for HFR and Ms. Gia Compton, Deputy Chief of HFR, presented information that served as a follow-up to discussions at the previous meetings in Lawrenceville and Forsyth.

At the second meeting at GPSTC, the Committee requested information related to current and completed investigations and emergency relocations. HFR compiled a response to those requests and that information can be found in Exhibit B of the Appendix. In the SFY14, there have been 293 investigations in rural and urban areas across the state.

It was mentioned that a misdemeanor offense is not very enticing to law enforcement and Senator Unterman suggested that it may be more realistic to expect law enforcement to crack down on these cases if the offense was elevated to a felony. The Committee also discussed the current penalty of \$100 per day, per bed for unlicensed PCHs that doubles if the facility

continues to operate after receiving written notice. Senator Unterman asked HFR whether this penalty amount is an effective deterrent and whether it would be worthwhile to increase the penalty amounts. HFR is unsure that increasing this penalty amount would deter illegal operators, many of which view the fines as the small price of doing business before they can evade law enforcement by moving residents to another facility. HFR told the Committee that the presence and speed of HFR in conducting investigations seems to be the best deterrent.

Representative Benton asked HFR if enough information is able to be gathered at an onsite investigation so that it can be used later. HFR answered that they collect information on residents, such as Social Security numbers and birthdates, when information is available. This information is then shared with the necessary agencies. When this information can be gathered, it is useful in serving warrants. Senator Albers followed up on this discussion by asking whether there is a database for this information and the Committee learned that HFR does not currently have any sort of a database. Representative Benton stated that this is crucial for all the agencies to be on the same page and that this sort of historical information should be readily available.

The Committee discussed the exemptions for PCHs under HFR's Rules and Regulations for PCHs, remembering that one of the worst cases of elder abuse in South Georgia came out of a facility that was operated by a charitable organization. In response to the Committee's questions on whether the exemptions are appropriate, Ms. Compton told the Committee that the concept of the exemptions is a good one. The mindset for the exemption made sense at the time they were created, however, she said it seems reasonable to reevaluate the exemptions now.<sup>9</sup> Representative Tankersley added that this would help address issues where hospital staff inadvertently refer a patient in a facility that is either unlicensed or is a licensed front that funnels into unlicensed PCHs.

Ms. Joan Mathis of the Georgia Council on Aging, asked about HIPAA violations and how this affects the sharing of information among state agencies that collaborate to relocate residents. Ms. King reported that this issue has been addressed in the ANE Working Group. This problem often prevents law enforcement from opening a case because they do not have enough information to show probable cause.

Ms. Mary Lynn Quinn from the Georgia Council on Aging briefly provided testimony to the Committee explaining that it is difficult to find the list of licensed PCHs on HFR's website. She suggested that it could be changed and linked to an easily identified logo that can be accessed on the homepage of the website.

In SFY15, the General Assembly provided funds for temporary emergency respite placement of abused, neglected, or exploited at-risk adults. Ms. Pat King clarified to the Committee that

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<sup>9</sup> HFR's Rules and Regulations for PCHs lists exempted facilities in Chapter 111-8-62-.04, which is attached as Exhibit C in the Appendix.

State funds totaling \$226,800 were appropriated to Elder Abuse Investigations and Prevention under the DHS for SFY15. DAS requested a continuance of these funds in SFY16.

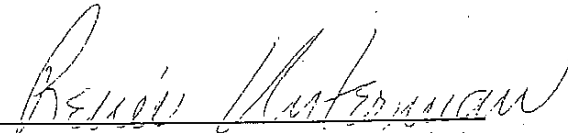
## **VI. COMMITTEE RECOMMENDATIONS**

Based on the foregoing findings, the Committee makes the following recommendations:

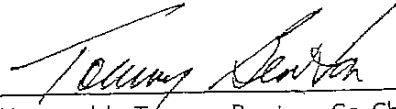
1. The Committee recommends a continuance of the State funds appropriated to Elder Abuse Investigations and Prevention under DHS for SFY16, including funds for temporary emergency respite placement of abused, neglected, or exploited at-risk adults. State funds totaling \$226,800 were appropriated to At-risk Adult Abuse Investigations and Prevention under DHS for SFY15.
2. The Committee supports elevating a first offense for the operation of an unlicensed PCH from a misdemeanor to a felony and legislation supporting this recommendation should be drafted and introduced during the 2015 Legislative Session.
3. State agencies and departments involved in at-risk adult abuse cases should be able to share information with law enforcement and with each other without fear of violating HIPAA.
4. A data analyst position should be created at DCH for the purpose of creating a statewide database to house information collected by HFR during an onsite PCH investigation. The Committee recommends that \$80,000 be appropriated to support the data analyst position.
5. HFR should reevaluate the exemptions for certain PCHs in its Rules and Regulations for PCHs and ensure that its list of licensed PCHs is easily located online on HFR's website.
6. The Committee supports the initiatives and recommendations of the ANE Working Group led by the GBI, including changes in Georgia law to allow for better preservation of evidence that can be used to prosecute operators of illegal facilities.

Respectfully submitted,

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ADULTS



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Committee member signatures are on file in the Senate Research Office and are available upon request.