

111-8-25-.01 Legal Authority, Title and Purpose.

These rules shall be known as the Rules and Regulations for Enforcement of General Licensing and Enforcement Requirements. The purposes of these rules are to provide for general licensing and enforcement actions requirements by the department with respect to violations of licensing requirements by certain applicants or licensees operating facilities subject to regulation by the department as set forth under Chapters 7, 13, 22, 23 and 44 of Title 31, Chapter 5 of Title 26, paragraph (8) of subsection (d) of Code § 31-2-4 and Article 7 of Chapter 5 of Title 49; to provide for licensing, payment of licensing activities fees, inspections, investigations and examinations of such facilities; compliance with plans of correction; and to provide that certain facilities give notice of violations giving rise to the receipt of notice of the imposition of any sanction under federal or state laws or regulations. These rules are adopted and published pursuant to the Official Code of Georgia Annotated (O.C.G.A.) §§ 31-2-4, 31-2-9, 31-2-11 and 31-7-2.2.

Authority O.C.G.A. Secs. 31-2-4, 31-2-9, 31-2-11, 31-7-2.2. **History.** Original Rule entitled “Legal Authority” adopted. F. Mar. 17, 2010; eff. Apr. 6, 2010. **Repealed:** New Rule entitled “Legal Authority, Title and Purpose” adopted. F. July 14, 2010; eff. Aug. 3, 2010.

111-8-25-.02 Definitions.

- (1) "Administrative action" means the initiation of a contested case as defined in the Georgia Administrative Procedures Act (APA), O.C.G.A. § 50-13-2(2).
- (2) "Alter ego" means a person who acts pursuant to the control or influence of another while purporting to act independently.
- (3) "Commissioner" means the Commissioner of the Department of Community Health.
- (4) "Department" means the Department of Community Health, its agents and employees.
- (5) "Document" means any book, record, paper, or other information related to initial and continued licensing.
- (6) "Facility" means any agency, institution, entity or person subject to regulation by the department under Chapters 7, 13, 22, 23, 44 of Title 31, paragraph(8) of subsection (d) of Code § 31-2-4, Chapter 5 of Title 26, and Article 7 of Chapter 6 of Title 49 of the Official Code of Georgia Annotated.
- (7) "Final Adverse Finding" means 1) the issuance of a ruling by the Commissioner on any appeal from a decision of a hearing officer or hearing examiner pursuant to a contested case involving the imposition of a sanction; 2) when a decision of the hearing officers or hearing examiner becomes final by operation of law because no appeal is made to the Commissioner; 3) where the parties to a contested case dispose of the case by settlement; or 4) where a facility does not contest within the allotted time period a sanction imposed by the department.
- (8) "Formal Order" means any ruling following an administrative or judicial hearing or an emergency directive issued by the Commissioner as authorized by law related to the initial or continued licensing of a facility which requires the facility to take or refrain from taking specified action. Formal orders include, but are not limited necessarily to final administrative hearing decisions and settlement agreements between the department and facilities. Additionally, formal orders, as defined herein, may include any orders issued by the Commissioner as authorized by law, such as but not limited to O.C.G.A. § 31-7-2.2 or as authorized by similar statutes enacted after the effective date of these rules.
- (9) "Inspection" means any examination by the department or its representatives of a facility, including but not necessarily limited to the premises, and staff, persons in care, and documents pertinent to initial and continued licensing so that the department may determine whether a facility is operating in compliance with licensing requirements. The term "inspection" includes any survey, monitoring visit, or other inquiry conducted for the purpose of making a compliance determination with respect to licensing requirements.

(10) "Investigation" means any examination, conducted in response to an allegation or allegations of noncompliance, by the department or its representative of a facility, including but not necessarily limited to the premises, and staff, persons in care, and documents pertinent to initial and continued licensing so that the department may determine whether a facility has violated any licensing requirement.

(11) "License" means the official authorization granted by the department pursuant to any of the provisions of law cited in Rule 111-8-25-.01 to operate a facility physically located in Georgia. The term "license" includes any permit, registration, commission, or similar designation reflecting such authorization.

(12) "Licensee" means any person holding a license.

(13) "Licensing requirements" means any provisions of law, rule, regulation, or formal order of the department which apply to facilities with respect to initial or continued authority to operate.

(14) "Management or Control", for the purpose of imposing the sanction pursuant to Rule 111-8-25-.04(1)(c) or 111-8-25-.04(2)(b), means the exercise of or authority to exercise direction, administration, or oversight over a facility's operations by certain persons which include owners, directors, or administrators.

(15) "Person" means any individual, agent, representative, governing authority, firm, organization, partnership, agency, association, corporation, facility, or other entity.

Authority O.C.G.A. Secs. 31-2-9, 31-2-11, 31-7-2.1, 31-7-2.2, 31-7-3.2. **History.** Original Rule entitled "Title and Purposes" adopted. F. Mar. 17, 2010; eff. Apr. 6, 2010. **Repealed:** New Rule entitled "Definitions" adopted. F. July 14, 2010; eff. Aug. 3, 2010.

111-8-25-.03 General Licensing Requirements and Fee Schedules.

(1) No facility shall offer or provide services which are required to be licensed under rules enforced by the department without a current license issued by the department.

(2) No license shall be issued by the department unless the facility is in compliance with applicable rules set forth in these rules, specific rules applicable to the particular facility type and all licensure activity fees due the department have been paid.

(3) Fees will be assessed to facilities and applicants for licensure for the following licensure activities: processing applications for a new license or a change in ownership, initial license fees, annual licensure activity fees to maintain current license, follow-up visits to periodic inspections, training materials, returned check and mail processing charges and civil monetary penalties.

(4) Application for License. An application for a license to provide regulated services shall be submitted on forms made available by the department in a format acceptable to the department. No application shall be acted upon by the department until the application is determined complete by the department with all required attachments and applicable fees submitted.

(5) Where the department denies an initial license for non-payment of fees or any other reason, such action may be taken by the department prior to an administrative hearing on the denial being held. The applicant whose license has been denied may obtain an administrative hearing, subsequent to the decision to deny the license, as authorized under Georgia law.

(6) Ongoing Licensure Activity Fees. All licenses issued by the department require payment of ongoing licensure activity fees as calculated by the department each state fiscal year, including the state fiscal year that these rules take effect. For annual licenses, such licensure activity fees will be due on the anniversary date of the issuance of the previous year's license. For continuing licenses, such ongoing licensing activity fees will be due October 31st of each state fiscal year. The annual fees shall include the base licensure activity fee and any additional fees incurred during the previous year. Such fees are due and payable to the department within thirty (30) days of receipt of the licensure activity fee invoice. Fees will be calculated by the department in a manner so as to help defray the direct and indirect costs incurred by the department in providing such licensure activities for all programs, but in no event shall exceed such costs.

(7) Effective January 31, 2011, the department may revoke any license if the facility has failed to pay the annually recurring licensure activity fees within sixty (60) days of receipt of a written invoice from the department. The revocation action is subject to written notice of the proposed revocation and a right to receive an administrative hearing on the amount past due and owing prior to the revocation action becoming final.

(8) Schedule of Fees. Fees collected by the department are not refundable, except in extraordinary circumstances as determined by the department in its sole discretion. The decision of the department as to whether to refund a payment is final and may not be appealed. Payment of fees must be by check or money order. No cash payments are accepted by the Department. The following schedule of fees applies for the listed licensure activities:

Licensure Activity	Fee	Fee Frequency
Application Processing Fee, Change in Ownership, Change in Service Level (requiring on site visit), Name Change – Any Program	\$300	Upon submission
Initial Provisional or Regular License (Same as annual licensure activity fee for each program type)	Varies by program	Submitted with application processing fee
Involuntary Application Processing Fee subsequent to unlicensed complaint investigation	\$550	
Follow-up Visit to Periodic Inspection – Any Program	\$250	License renewal date
Licenses		
Adult Day Centers (rules to be developed)**	\$250 (social) \$350 (medical)	Annually
Ambulatory Surgical Treatment Centers**	\$750	Annually
Birthing Centers**	\$250	Annually
Clinical Laboratories**	\$500	Annually
Community Living Arrangements**	\$350	Annually
Drug Abuse Treatment Programs**	\$500	Annually
End Stage Renal Disease Centers**		Annually
1-12 stations	\$600	Annually
13-24 stations	\$1,000	Annually
25 or more	\$1,100	Annually
Stand Alone ESRD Facilities Offering Peritoneal Dialysis Only:	\$800	Annually
Eye Banks	\$250	Annually
HMOs (if subject to licensure)	\$2,000	Annually
Home Health Agencies**	\$1,000	Annually
Hospices**	\$1,000	Annually
Hospitals**		Annually
CAHS < 25 beds	\$250	Annually
25 ≤ 50 beds	\$750	Annually

> 50 beds	\$1,500	Annually
Imaging Centers (rules to be developed)**	\$3,000	Annually
Infirmaries	\$250	Annually
Intermediate Care Facilities/MR (private)**	\$250	Annually
Narcotic Treatment Programs**	\$1,500	Annually
Nursing Homes**		Annually
1 ≤ 99	\$500	Annually
> 99	\$750	Annually
Personal Care Homes**		Annually
< 25 beds	\$350	Annually
25 ≤ 50 beds	\$750	Annually
> 50 beds	\$1,500	Annually
Private Home Care Providers**		Annually
Companion Sitter or Personal Care	\$200 < 50 FTEs *** \$400 > 49 FTEs	Annually
Nursing Services Only	\$500 < 50 FTEs \$750 > 49 FTEs	Annually
Nursing Services and Personal Care and/or Companion Sitter	\$750 < 50 FTEs \$1,000 > 49 FTEs	Annually
Traumatic Brain Injury Facilities	\$250	Annually
X-Ray Facilities (per machine)	\$300	Annually
Miscellaneous Fees:		
Civil monetary penalties as finally determined		Case-by-case basis
Late Fee: 60 days past due	\$150	Per instance
Lists of Facilities by license type (electronic only)	\$25	Per request
Replacement of Lost Permit	\$50	Per request
Returned check charge – as assessed by bank	< \$50	Per instance
Special handling charges when required (special courier/mailing costs)	Cost	Per instance
Training materials – cost to reproduce for participant	\$.25 per page, \$5 per disk	Per participant
**Eligible for a 25% discount if currently accredited by a		

nationally recognized accreditation organization approved by the department as having standards comparable to specific state licensure requirements, and complete copy of current decision is submitted to the department at the time of renewal or is already on file with the department.

***FTEs Full-time equivalent (40 hours/week) employees/contract workers rules, so a provider with less than 50 FTEs could utilize up to 99 half-time (20 hours/week) employees/contract workers.

Authority O.C.G.A. Secs. 31-2-4, 31-2-9, 31-2-11, 31-7-2.2. **History.** Original Rule entitled “Definitions” adopted. F. Mar. 17, 2010; eff. Apr. 6, 2010. **Repealed:** New Rule entitled “General Licensing Requirements and Fee Schedules” adopted. F. July 14, 2010; eff. Aug. 3, 2010.

111-8-25-.04 Enforcement.

The department shall have the authority to impose any one or more of the sanctions enumerated in paragraphs (1), (2) and (3) of Rule 111-8-25-.05 upon a finding that an applicant or licensee has:

- (a) Knowingly made any verbal or written false statement of material fact either in connection with the application for a license; or on documents submitted to the department as part of any inspection or investigation; or in the falsification or alteration of facility records made or maintained by the facility;
- (b) Failed or refused, without legal cause, to provide the department with access to the premises subject to regulation or information pertinent to the initial and continued licensing of the facility.
- (c) Failed to comply with the licensing requirements of this state; or
- (d) Failed to comply with the provisions of O.C.G.A. § 31-2-11 or with the provisions of these rules.

Authority O.C.G.A. Sec. 31-2-11. **History.** Original Rule entitled "Enforcement" adopted. F. Mar. 17, 2010; eff. Apr. 6, 2010.

111-8-25-.05 Sanctions.

(1) **Sanctions against Licensees.** When the department finds that any licensee has violated any provision of Rule 111-8-25-.04, Enforcement, the department, subject to notice and opportunity for a hearing, may impose any one or more of the sanctions in subparagraphs (a) through (f) below.

(a) **Administer a Public Reprimand.** If the sanction of public reprimand is finally imposed, as defined by a final adverse finding, the public reprimand shall consist of a notice prepared by the department that the facility has been reprimanded; such notice shall include a written report of the department's findings along with the facility's response and corrective action plan.

1. **Location of Notice.** The facility shall post the public reprimand in places readily accessible and continuously visible to persons in care and their representatives.

2. **Timing of Notice.** The facility shall post the public reprimand on the day the public reprimand is received by the facility and such reprimand shall remain posted for a period of ninety (90) days.

3. **Notice for Service Inquiries.** During any period that the reprimand is required to be posted, the facility shall advise persons seeking services and representatives of persons seeking services of the reprimand. In response to a notice by the department of the imposition of a public reprimand, a facility may request that the department not require the facility to advise persons seeking services and representatives of persons seeking services of the reprimand if such requirement would compromise its ability to provide services, and is not feasible given the facility's range of services and the ways its services are provided. Such request must be made within ten (10) calendar days from receipt of the notice from the department. The department upon such a convincing showing, as well as a showing that the correction of the violation has been achieved and will be sustained by the facility, may elect not to enforce this requirement. If the department elects to enforce the requirement and the facility appeals the imposition of the sanction, the issue of this requirement may become an issue for consideration by the hearing examiner at any hearing held on the sanction, unless waived by the facility.

(b) **Suspend any License.** The department may suspend for a definite period or for an indefinite period in connection with any condition which may be attached to the restoration of said license.

1. The department may impose the sanction of suspension for a definite period calculated by it as the period necessary for the facility to implement long-term corrective measures and for the facility to be deterred from lapsing into noncompliance in the future. As an alternative to suspending a license for a definite period, the department may suspend the license for an indefinite period in connection with the imposition of any condition or conditions reasonably calculated to elicit long-term compliance with licensing

requirements which the facility must meet and demonstrate before it may regain its license.

2. If the sanction of license suspension is finally imposed, as defined by a final adverse finding, the department shall effectuate it by requiring the facility to return its license to the department. Upon the expiration of any period of suspension, and upon a showing by the facility that it has achieved compliance with licensing requirements, the department shall reissue the facility a license. Where the license was suspended for an indefinite period in connection with conditions for the re-issuance of a license, once the facility can show that any and all conditions imposed by the department have been met, the department shall reissue the facility a license.

(c) Prohibit Persons in Management or Control. The department may prohibit a licensee from allowing a person who previously was involved in the management or control of any facility which has had its license revoked or application denied within the past twelve (12) months to be involved in the management or control of such facility. Any such person found by the department to have acted diligently and in good faith to ensure correction of violations in a facility which has had its license revoked or denied, however, shall not be subject to this prohibition if that person became involved in the management or control of the facility after the facility was notified by the department of violations of licensing requirements giving rise to a revocation or denial action. This subparagraph shall not be construed to require the department to obtain any information that is not readily available to it regarding any person's involvement with a facility. For the purpose of this Rule, the twelve (12) month period will begin to run from the date of any final adverse finding or the date that any stay of enforcement ceased, whichever first occurs.

(d) Revoke any License. The department may revoke any license. If the sanction of license revocation is finally imposed, as defined by a final adverse finding, the department shall effectuate it by requiring the facility to return its license to the department.

(e) Impose a Civil Penalty Fine. The department may impose a civil penalty fine, not to exceed a total of \$25,000, of up to \$1,000 per day for each violation of a law, rule, regulation, or formal order related to the initial or continued licensing of a facility; provided, however, that no such fines shall exceed \$25,000 for violations found during the same inspection and provided, further, that no fine may be imposed against any nursing facility, nursing home, or intermediate care facility which is subject to intermediate sanctions under the provisions of 42 U.S.C. § 1396r(h)(2)(A), as amended, whether or not those sanctions actually are imposed. If a violation is found on two (2) consecutive inspections there shall exist a rebuttable presumption that the violation continued throughout the period of time between each inspection.

1. Categories of Violations. Violations shall be assigned a category based upon the following criteria:

(i) **Category I** (\$601-\$1000 per violation per day): A violation or combination of violations of licensing requirements which has caused death or serious physical or emotional harm to a person or persons in care or poses an imminent and serious threat or hazard to the physical or emotional health and safety of one or more persons in care;

(ii) **Category II** (\$301-\$600 per violation per day): A violation or combination of violations of licensing requirements which has direct adverse effect on the physical or emotional health and safety of a person or persons in care; and

(iii) **Category III** (\$50-\$300 per violation per day): A violation or combination of violations of licensing requirements which indirectly or over a period of time has or is likely to have an adverse effect on the physical or emotional health and safety of a person or persons in care, or a violation or violations of administrative, reporting, or notice requirements.

2. Fine Amounts. The specific amount of the fine for each violation in each category shall be determined based upon whether and when the particular or similar rule, law, or order, or the act, omission, incident, circumstance, or conduct giving rise to the violation of the same regulatory requirement, or one substantially similar thereto, has been cited by the department previously. In no case, however, shall a facility be sanctioned for a violation characterized as a subsequent or repeat violation unless the time frame identified in the acceptable plan of correction has passed and the facility nonetheless has failed to attain or maintain correction.

(i) **Initial Violation.** If the same or a substantially similar violation has not been cited previously by the department within the past twenty-four (24) months against the facility, it shall be considered to be an initial violation. The fine amount for initial violations shall be the bottom figure in the appropriate category.

(ii) **Subsequent Violation.** If the present violation or a substantially similar violation had been found and cited by the department as the result of the last inspection of the facility, or as the result of any one other inspection during the previous twenty-four (24) months, the violations shall be considered to be a subsequent violation. The fine amount for subsequent violations shall be in the range between the top and bottom figures of the appropriate category and other factors, such as the existence of mitigating or aggravating circumstances, shall be considered in determining the fine amount within the range.

(iii) **Repeat Violation.** If the present violation or a substantially similar violation also had been found and cited any two (2) other times during the past twenty-four (24) months, it shall be considered to be a repeat violation. The fine amount for repeat violations shall be the top figure in the category.

3. Limitation of Fines. A single act, omission, incident, circumstance, or conduct shall not give rise to the imposition of more than one fine even though such act, omission, incident, circumstance, or conduct may have violated more than one licensing requirement. In such a case, the fine shall be based upon the highest category in which

any one violation resulting from the same act, omission, incident, circumstance, or conduct falls. Correction by the facility of cited violations tolls the continuation of the assessment of the daily fine, provided, however, that the department shall confirm that such cited violations were corrected.

4. Financial Hardships. In response to a notice by the department of the imposition a fine, a facility may request that the department reduce the fine amount if the fine would cause significant financial hardship that would compromise its ability to provide care or services in compliance with licensing requirements. The department, in its discretion, upon such a convincing showing as well as a showing that correction of the violation has been achieved and will be sustained by the facility, may reduce the amount of the fine. If the department proceeds with the imposition of the fine as proposed, the issue of significant financial hardship may become an issue for consideration by the hearing examiner at any hearing held on the sanction, unless waived by the facility.

(f) Limit or Restrict any License. The department may limit or restrict any license as the department deems necessary for the protection of the public (a provisional or temporary time-limited license granted by the department shall not be considered to be a limited or restricted license).

1. Limitation or restriction of a license may occur to: 1) prohibit the provision of a particular service or services when a facility is unable or unwilling to render or perform the service or services in compliance with licensing requirements; 2) restrict the authorized number of persons cared for by a facility when the facility is unable or unwilling to render care in compliance with licensing requirements; and/or 3) prohibit a facility from caring for persons with specific types or degrees of needs that the facility is not capable of meeting in compliance with licensing requirements.

2. If the sanction of license limitation or restriction is finally imposed, as defined by a final adverse finding, the department shall effectuate it by sending the facility a restricted or limited license. Upon receipt of the restricted or limited license, the facility shall return to the department its original license. Upon expiration of the restriction or limitation period, and upon proof by the facility that it has taken effective corrective action and has sustained that action during the period of the sanction, the department shall fully restore the facility's license. The department shall take any steps it deems necessary to verify compliance prior to the expiration of the sanction period so that a compliant facility is restored its license without delay.

(2) Sanctions against Applicants. When the department finds that any applicant for a license has violated any provision of Rule 111-8-25-.04, Enforcement, the department, subject to notice and opportunity for a hearing, may impose any one or more of the following sanctions in subparagraphs (a) through (c) below.

(a) Refuse to Grant License. The department may refuse to grant (deny) a license; provided, however, that the department may refuse to grant an initial license without holding a hearing prior to taking such action.

1. The department may deny an application for a license where the facility has failed to demonstrate compliance with licensing requirements. Additionally, the department may deny an application for a license where the applicant or alter ego of the applicant has had a license denied, revoked, or suspended within one year of the date of an application, or where the applicant has transferred ownership or governing authority of a facility within one year of the date of a new application when such transfer was made in order to avert denial, revocation, or suspension of a license. For the purpose of determining the one year denial period, the period shall begin to run from the date of the final adverse finding, or the date any stay of enforcement ceased, whichever first occurs. In further determining whether to grant or deny a license, the department may consider the applicant's overall record of compliance with licensing requirements.

(b) Prohibit Persons in Management or Control. The department may prohibit an applicant from allowing a person who previously was involved in the management or control of any facility which has had its license revoked or application denied within the past twelve (12) months to be involved in the management or control of such facility. Any such person found by the department to have acted diligently and in good faith to ensure correction of violations in a facility which has had its license revoked or denied, however, shall not be subject to this prohibition if that person became involved in the management or control of the facility after the facility was notified by the department of violations of licensing requirements giving rise to denial action. This subparagraph shall not be construed to require the department to obtain any information that is not readily available to it regarding any person's involvement with a facility. For the purpose of this rule, the twelve (12) month period will begin to run from the date of any final adverse finding or the date that any stay of enforcement ceased, whichever first occurs.

(c) Limit or Restrict any License. The department may limit or restrict any license as it deems necessary for the protection of the public (a provisional or temporary time-limited license granted by the department shall not be considered to be a limited or restricted license).

1. Limitations or restrictions of a license may include any or all of the following as determined necessary by the department:

(i) prohibiting the provision of a particular service or services when a facility is unable or unwilling to render or perform the service or services in compliance with licensing requirements;

(ii) restricting the authorized number of persons cared for by a facility when the facility is unable or unwilling to render care in compliance with licensing requirements; and

(iii) prohibiting a facility from caring for persons with specific types or degrees of needs that the facility is not capable of meeting in compliance with licensing requirements.

2. The department may restrict a license where any applicant or alter ego of the applicant has had a license denied, revoked, or suspended within one (1) year of the date of an

application, or where the applicant has transferred ownership of governing authority of a facility within one (1) year of the date of a new application when such transfer was made in order to avert denial, revocation, or suspension of a license. For the purpose of determining the one (1) year denial period, the period shall begin to run from the date of the final adverse finding or the date any stay of enforcement ceased, whichever occurs first.

3. If the sanction of license limitation or restriction is finally imposed, as defined by a final adverse finding, the department shall effectuate it by sending the facility a restricted or limited license. Upon receipt of the restricted or limited license, the facility shall return to the department its original license if one was granted. Upon expiration of the restriction or limitation period, and upon proof by the facility that it has taken effective corrective action and has sustained that action during the period of the sanction, the department may issue the facility a license. The department shall take any steps it deems necessary to verify compliance prior to the expiration of the sanction period so that a compliant facility may be issued a license without delay.

(3) Extraordinary Sanctions Where Imminent and Substantial Danger. Where the Commissioner of the department determines that the patients or residents in the care of an institution, community living arrangement or drug abuse treatment program subject to licensure are subject to an imminent and substantial danger, the Commissioner may order any of the extraordinary sanctions listed in subsections (b), (c), (d) and (e), of this rule, 111-8-25-.05(3), to take effect immediately unless otherwise specified in the order, without notice and opportunity for hearing prior to the order taking effect.

(a) Content of the Order. The order shall contain the following:

1. the scope of the order;
2. reasons for the issuance of the order;
3. effective date of the order if other than the date the order is issued;
4. person to whom questions concerning the order are to be addressed; and
5. notice of the right to obtain after the issuance of the order, a preliminary hearing and an administrative hearing regarding the emergency order as a contested case.

(b) Emergency Relocation. The Commissioner may order emergency relocation of the patients or residents of any institution, community living arrangement or drug abuse treatment program subject to licensure to the nearest appropriate institution, community living arrangement or drug abuse treatment program. Prior to issuing an emergency order, the Commissioner may consult with persons knowledgeable in the field of medical care and a representative of the facility to determine if there is a potential for greater adverse effects on patient or resident care as a result of the proposed issuance of an emergency order. The Commissioner shall provide for notice to the patient or resident, his or her

next of kin or guardian and his or her physician of the emergency relocation and the reasons therefore; relocation to the nearest appropriate institution, community living arrangement or drug abuse treatment and education program and other protection designed to ensure the welfare and, when possible, the desires of the patient or resident.

1. When provided with the notice of the execution of the emergency relocation order, the institution, community living arrangement or drug abuse treatment program shall make patient/resident information available to the department in usable formats.
2. The institution, community living arrangement or drug abuse treatment program that is the subject of the emergency relocation order shall not impede in any way the Department's communications with the patients/residents, next of kin or guardians of the patients/residents and attending physicians.
3. The institution, community living arrangement or drug abuse treatment program shall continue to provide care and services to the patients/residents and shall prepare records required by the receiving facility which are necessary to facilitate continuity of patient/resident care for the patients/residents to be relocated.
4. The institution, community living arrangement or drug abuse treatment program shall make any personal property, such as but not limited to patient/resident funds, available to the receiving facility at the time of transfer.

(c) **Emergency Placement of Monitor.** The Commissioner may order the emergency placement of a monitor in an institution community living arrangement or drug abuse treatment program subject to licensure when conditions at the facility require immediate oversight for the safety of the patients or residents.

1. **Conditions.** The placement of a monitor may be required when one or more of the following circumstances are present:

- (i) the institution, community living arrangement or drug abuse treatment program is operating without a permit or license;
- (ii) the department has denied the application for a permit or a license or has initiated an action to revoke the existing permit or license of the institution, community living arrangement or drug abuse treatment program;
- (iii) the institution, community living arrangement or drug abuse treatment program is closing or plans to close and adequate arrangement for the relocation of the patients or residents have not been made at thirty (30) days before the date of closure; or
- (iv) the health, safety, security, rights or welfare of the patients or residents cannot be adequately assured by the institution, community living arrangement or drug abuse treatment program. For example, the department is informed that essential service vendors (electricity, gas, water, food or pharmacy) have not been paid and anticipate

discontinuing service and the institution, community living arrangement or drug abuse treatment program does not have a signed contract with another vendor establishing that there will be no disruption in service.

2. Role of Monitor. The monitor may be placed in the institution, community living arrangement or drug abuse treatment program for no more than ten (10) days during which time the monitor shall observe conditions and compliance with remedial action recommended by the department. The monitor shall not assume any administrative responsibility for the institution, community living arrangement or drug abuse treatment program, nor shall the monitor be liable for any of the actions of the institution, community living arrangement or drug abuse treatment program.

3. Cost of Monitor. The institution, community living arrangement or drug abuse treatment program shall pay the costs associated with the placement of the monitor unless the Commissioner's order placing the monitor is determined to be invalid in a contested case proceeding under the Georgia Administrative Procedure Act, Chapter 13 of Title 50.

(d) Emergency Prohibition of Admissions. The Commissioner may order the emergency prohibition of admissions to an institution, community living arrangement or drug abuse treatment program when such facility has failed to correct a violation of departmental permit rules within a reasonable period of time, as specified in the department's corrective order, and the violation could either jeopardize the health and safety of the residents/patients if allowed to remain uncorrected or is a repeat violation over a twelve (12) month period, which is intentional or due to gross negligence.

(e) Emergency Suspension of Admissions. The Commissioner may order admissions to an institution, community living or drug abuse treatment program, may be suspended until the department has determined that the violation has been corrected or until the department has determined that the facility has undertaken the action necessary to effect correction of the violation.

(f) Preliminary Hearing. The institution, community living arrangement or drug abuse treatment program affected by the Commissioner's emergency order, may request that the department hold a preliminary hearing within the department on the validity of the order and the need for its continuation. Such hearing shall occur within ten (10) days following the request.

1. A request for a preliminary hearing shall be made in writing to the representative of the department designated in the emergency order. Unless a request is made to appear in person, the preliminary hearing shall consist of an administrative review of the record, written evidence submitted by the institution affected, and a preliminary written argument in support of its contentions.

2. If a request is made to appear in person at the preliminary hearing, the following information shall be included in the request, or provided prior to the hearing:

- (i) the name and address of person or persons, if any, who will be representing the institution in the preliminary hearing;
- (ii) the names and titles of all other persons who will attend the preliminary hearing; and
- (iii) any additional evidence the institution wishes to submit for consideration at the hearing.

3. Upon receipt of a request for a preliminary hearing, the department shall set and give notice of the date, time, and location of the preliminary hearing. The preliminary hearing shall be held within ten (10) calendar days of receipt of the request.

4. If a personal appearance is requested, the preliminary hearing shall consist of a review of the evidence in the record; any additional evidence introduced at the hearing; and any arguments made. A sound recording shall be made of the hearing.

5. Within seven (7) calendar days of the close of the preliminary hearing, the department shall render a written decision. The decision shall be divided as follows:

- (i) description of additional evidence submitted by the affected institution;
- (ii) summary of the arguments and/or brief submitted by the institution in support of its contention that the emergency order is invalid;
- (iii) a statement as to whether the emergency order issued by the department is found valid and the reasons therefore; and
- (iv) notice of the affected institution's right to obtain an administrative hearing regarding the Commissioner's emergency order pursuant to O.C.G.A. § 50-13-13, if the emergency order is found valid as a result of the department's preliminary hearing.

6. Pending final appeal of the validity of any emergency order issued as provided herein through the administrative hearing process, such emergency order shall remain in full effect until vacated or rescinded by the Commissioner.

(g) **Cumulative Remedy.** The department is not limited to a single emergency action under these rules, nor is the department precluded from other actions permitted by other law or regulations during the time an emergency order is in force.

(4) **Standards for Taking Sanctions.** In taking any of the actions pursuant to subparagraphs (1), (2) or (3) of this rule, the department shall consider the seriousness of the violation or violations, including the circumstances, extent, and gravity of the prohibited act or acts or failure to act, and the hazard or potential hazard created to the physical or emotional health and safety of the public.

(5) **Non-Compliance with Sanctions.** Failure on the part of any facility to abide by any sanction, including payment of a fine, which is finally imposed against it, shall constitute grounds for the imposition of additional sanctions, including revocation.

(6) **Settlements.** With regard to any contested case instituted by the department pursuant to this Chapter or other provisions of law or regulation which may now or hereafter authorize remedial or disciplinary grounds and action, the department may, in its discretion, dispose of the action so instituted by settlement. In such cases, the department, the facility, and those persons deemed by the department to be successors in interest to any settlement agreement, shall be bound by the terms specified therein. Violation thereof by any applicant or licensee, their agents, employees, or others acting on their behalf, shall constitute grounds for the imposition of any sanctions enumerated in this Chapter, including revocation.

(7) **Sanctions for Nursing Facilities.** With respect to any facility classified as a nursing facility, nursing home, or intermediate care home, the department may not take an action to fine or restrict the license of any such facility based on the same act, occurrence, or omission for which: the facility has received an intermediate sanction under the provisions of 42 U.S.C. § 1396r(h)(2)(A), as amended, or 42 U.S.C. § 1395i-3(h)(2)(B); or such facility has been served formal notice of intent to take such a sanction which the Division of Medical Assistance, based on administrative review, or any other appropriate body, based on administrative or judicial review, determines not to impose, provided however, that nothing in this subparagraph shall prohibit the department from using the provisions authorized by law in paragraph (5) above.

Authority O.C.G.A. Secs. 31-2-11, 31-7-2.2, 31-7-4. **History.** Original Rule entitled "Sanctions" adopted. F. Mar. 17, 2010; eff. Apr. 6, 2010. **Repealed:** New Rule entitled "Sanctions" adopted. F. July 14, 2010; eff. Aug. 3, 2010.

111-8-25-.06 Investigations, Inspections and Plans of Correction.

(1) **Authority to Investigate.** The department shall have the authority to make public or private investigations inside or outside this state. Such investigations may be initiated at any time, in the discretion of the department, and may continue during the pendency of any action initiated by the department pursuant to Rule 111-8-25-.05 of this Chapter.

(2) **Consent to Entry and Access.** An application for a license or the issuance of the same by the department constitutes consent by the applicant or licensee and the owner of the premises for the department's representatives, after displaying identification to any facility staff, to enter the facility for the purpose of conducting an investigation or an inspection.

(a) Department representatives shall be allowed reasonable and meaningful access to the facility's premises, and information pertinent to licensure including staff and persons in care. The department shall have the authority to require the production of any documents related to the initial and continued licensing of any facility.

(3) **Cooperation with Inspection.** Facility staff shall cooperate with any inspection or investigation conducted by the department and shall provide, without unreasonable delay, any documents which the department is entitled hereunder.

(4) **Assessment of Expenses.** Pursuant to the inspection, investigation, and enforcement powers given to the department by O.C.G.A. § 31-2-11 and other applicable laws, and the provisions of this Chapter, the department may assess against a facility reasonable and necessary expenses incurred by the department pursuant to any administrative or legal actions required by the failure of a facility to fully comply with licensing requirements. Such expenses may be assessed only pursuant to the initiation of sanction actions under this Chapter and may only be collected if such actions result in final adverse findings. A facility shall be notified of the department's action to assess expenses when the department sends a facility a notice of the sanction. If the sanction is appealed, the assessment may become an issue for consideration by the hearing examiner at any hearing held on the sanction.

(a) **Reasonable and Necessary Expenses.** Reasonable and necessary expenses, as used in this subparagraph, shall include, but not necessarily be limited to: hourly compensation of department representatives, commuting expenses (including mileage at the current state reimbursement rate), and lodging and meal expenses (at the rate approved for reimbursement by the state) associated with overnight out-of-town travel; and other similar costs. Assessments shall not include attorney's fees and expenses of litigation, shall not exceed actual expenses, and shall be made only if inspections, investigations, or enforcement actions result in final adverse findings.

(b) **Payment of Assessed Expenses.** Expenses assessed against a facility shall be paid within thirty (30) days of receipt of a statement of expenses. In response to an assessment, a facility may request that the department reduce the assessment or agree to a

payment plan if full payment within thirty (30) days would cause significant financial hardship that would compromise its ability to provide care or services in compliance with licensing requirements. The issue of significant financial hardship caused by the assessment may become an issue for consideration by the hearing examiner at any hearing held on the sanction.

(5) Outcome of Investigation Available. When an investigation is initiated due to an allegation of noncompliance by any person acting on his or her own or another's behalf, the outcome of the investigation shall be provided by the department to that person and to the facility upon request after the investigation is completed; provided however, that the names and identifying information regarding the complainants are classified as confidential. Nothing in this rule shall be construed to require the department to release the name or identifying information regarding a complainant without first obtaining proper authorization from such complainant. Nor shall this rule be construed to require the department to release any other confidential or privileged information without first obtaining proper authorization.

(6) Compliance with Plan of Correction. If violations of any licensing rules are identified, the facility will be given a written report of the violation that identifies the rule violated. The facility shall submit a written plan of correction in response to the report of violation, which states what the facility will do, and when, to correct each of the violations identified. The facility may offer an explanation or dispute the findings of violations in the written plan of correction, so long as an acceptable plan of correction is submitted within ten (10) days of the facility's receipt of the written report of inspection. If the initial plan of correction is unacceptable to the department, the facility will be provided with at least one (1) opportunity to revise the unacceptable plan of correction. The facility shall comply with the plan of correction accepted by the department.

Authority O.C.G.A. Secs. 31-2-11, 31-5-5, 31-7-2.2, 31-7-4. **History.** Original Rule entitled "Investigations and Inspections" adopted. F. Mar. 17, 2010; eff. Apr. 6, 2010. **Repealed:** New Rule entitled "Investigations, Inspections and Plans of Correction" adopted. F. July 14, 2010; eff. Aug. 3, 2010.

111-8-25-.07 Immunity.

For any action taken or any proceeding held under this Chapter or under color of law, except for gross negligence or willful or wanton misconduct, the department, when acting in its official capacity, shall be immune from liability and suit to the same extent that any judge of any court of general jurisdiction in this state would be immune.

Authority O.C.G.A. Sec. 31-2-11. **History.** Original Rule entitled “Immunity” adopted. F. Mar. 17, 2010; eff. Apr. 6, 2010.

111-8-25-.08 Exemptions.

In an administrative or legal proceeding under this Chapter, a person claiming an exemption or an exception granted by law, rule, regulation, or formal order has the burden of proving this exemption or exception.

Authority O.C.G.A. Sec. 31-2-11. **History.** Original Rule entitled “Exemptions” adopted. F. Mar. 17, 2010; eff. Apr. 6, 2010.

111-8-25-.09 Applicability of Administrative Procedures Act.

This Chapter and all sanction actions resulting from its provisions shall be administered in accordance with Chapter 13 of Title 50 of the Official Code of Georgia Annotated, the Georgia Administrative Procedure Act. Any request for hearing in response to any sanction action undertaken pursuant to this Chapter shall be in writing and shall be submitted to the department no later than 10 calendar days from the date of receipt of any notice of intent by the department to impose a sanction setting forth the proposed sanction or sanctions and the basis therefore.

Authority O.C.G.A. Secs. 31-2-11, 50-13-18. **History.** Original Rule entitled “Applicability of Administrative Procedures Act” adopted. F. Mar. 17, 2010; eff. Apr. 6, 2010.

111-8-25-.10 Notice of Violations.

(1) Where a nursing home or intermediate care home is required by the provisions of O.C.G.A. § 31-7-3.2 to give notice of violations giving rise to the imposition of any sanction, the notice shall contain the information required by that code section and shall conform to the following requirements:

(a) **Size and Format of Notice.** The facility may post the Report of Licensure Inspection and Medicare/Medicaid Statement of Deficiencies, along with the notices by the department, the department's Division of Medical Assistance and/or the Center for Medicare and Medicaid Services of intent to impose any sanction. These may be posted in their original forms as the notice required by O.C.G.A. § 31-7-3.2(a) and (b). If the facility chooses to post the notice of the agency taking the action and the Report of Licensure Inspection and Statement of Deficiencies, there shall be a conspicuous heading clearly visible from at least twenty feet away, calling the attention of the observer to them. As an alternative, the facility may post its own notice which accurately and thoroughly reflects the violations found which give rise to the sanctions imposed or proposed and which describes each sanction or notice of sanction issued by any of the above-described agencies. Any such notice shall be at least 11 1/2 inches by 17 1/2 inches in size. Words and letters shall be in bold print and shall be at least one centimeter in size;

(b) **Location of Notice.** The facility shall post the notice in a place readily accessible and continuously visible to persons in care and their representatives;

(c) **Timing of Notice.** The facility shall post the notices within fourteen days after it receives notification of the imposition of a sanction for a violation which requires the notice. The notices shall remain in place until the department has determined that cited violations no longer exist, at which time the notice may be removed; and

(d) **Mailing of Notices.** Where any person has made a written request for a copy of the notice or notices, the facility shall mail the same to the requester within 5 business days of receipt of the request when such request is accompanied by a postage paid self addressed envelope.

Authority O.C.G.A. Secs. 31-2-11, 31-7-2.1, 31-7-3.2. **History.** Original Rule entitled "Notice of Violations" adopted. F. Mar. 17, 2010; eff. Apr. 6, 2010.

111-8-25-.11 Applicability of Other Laws.

The provisions of this Chapter shall be supplemental to and shall not operate to prohibit the department from acting pursuant to those provisions of law which may now or hereafter authorize remedial or disciplinary grounds and action for the department. In cases where those other provisions of law so authorize other disciplinary grounds and actions, but this Chapter limits such grounds or actions, those other provisions shall apply.

Authority O.C.G.A. Sec. 31-2-11. **History.** Original Rule entitled “Applicability of Other Laws” adopted. F. Mar. 17, 2010; eff. Apr. 6, 2010.

111-8-25-.12 Inspection Warrants.

In addition to the enforcement actions authorized by this Chapter with respect to refusal to provide the department with access to a facility, the department may make application to a court of competent jurisdiction for an inspection warrant if its representatives are denied meaningful access to the premises, staff, persons in care, and documents or other information of a licensed facility or of a facility which the department believes is required to have a license but which does not have one. Upon the grant of such a warrant, the department may gain entry and meaningful access to such facility, its staff, and persons in care therein, facility documents, and other information deemed pertinent by the department to making a compliance determination, unless the warrant specifically limits the entry or access allowed to department representatives. This rule shall not be construed to require the department to seek entry and be denied the same before it may apply for an inspection warrant.

Authority O.C.G.A. Secs. 31-2-11, 31-5-20 et seq. **History.** Original Rule entitled “Inspection Warrants” adopted. F. Mar. 17, 2010; eff. Apr. 6, 2010.

111-8-25-.13 Injunctive Relief.

The department may, without regard to the availability of other remedies, including the remedies set forth in this Chapter, seek an injunction against the continued operation of a facility without a license. The department likewise may seek injunctive relief against the continued operation of a facility in violation of licensing requirements.

Authority O.C.G.A. Secs. 31-2-11, 31-5-9. **History.** Original Rule entitled “Injunctive Relief” adopted. F. Mar. 17, 2010; eff. Apr. 6, 2010.

111-8-25-.14 Severability.

In the event that any rule, sentence, clause or phrase of any of these rules and regulations may be construed by any court of competent jurisdiction to be invalid, illegal, unconstitutional, or otherwise unenforceable, such determination or adjudication shall in no manner affect the remaining rules or portions thereof. The remaining rules or portions thereof shall remain in full force and effect as if such rule or portions thereof so determined, declared or adjudicated invalid or unconstitutional were not originally part of these rules.

Authority O.C.G.A. Sec. 31-2-11. **History.** Original Rule entitled “Severability” adopted. F. Mar. 17, 2010; eff. Apr. 6, 2010.

111-8-62-.01 Authority.

The legal authority for this Chapter is O.C.G.A. §§ 31-2-9, 31-2-11 and Chapter 7 of Title 31 of the Official Code of Georgia Annotated.

Authority O.C.G.A. Secs. 31-2-9, 31-2-11, 31-7-1 et seq. **History.** Original Rule entitled “Authority” adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.02 Purposes.

The purposes of these rules and regulations are to establish the minimum standards for the operation of homes which provide residential services to the citizens of this State who require varying degrees of supervision and care and to assure safe, humane and comfortable supportive residential settings for adults who need such services.

Authority O.C.G.A. Secs. 31-2-9, 31-2-11, 31-7-1, 31-7-2.1, 31-7-12. **History.** Original Rule entitled "Purposes" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.03 Definitions.

In these rules, unless the context otherwise requires, the words, phrases and symbols set forth herein shall mean the following:

(a) "Activities of daily living" means bathing, shaving, brushing teeth, combing hair, toileting, dressing, eating, laundering, cleaning room, managing money, writing letters, shopping, using public transportation, making telephone calls, grooming, obtaining appointments, engaging in leisure and recreational activities, or other similar activities;

(b) "Administrator" means the manager designated by the Governing Body as responsible for the day-to-day management, administration and supervision of the Personal Care Home, who may also serve as on-site manager and responsible staff person except during periods of his or her own absence;

(c) "Ambulatory Resident" means a resident who has the ability to move from place to place by walking, either unaided or aided by prosthesis, brace, cane, crutches, walker or hand rails, or by propelling a wheelchair; who can respond to an emergency condition, whether caused by fire or otherwise, and escape with minimal human assistance such as guiding a resident to an exit, using the normal means of egress;

(d) "Applicant" means:

1. When the personal care home is owned by a sole proprietorship, the individual proprietor shall be the applicant for the license, complete the statement of responsibility and serve as the licensee;
2. When the personal care home is owned by a partnership, the general partners shall be the applicant for the license, complete the statement of responsibility and serve as the licensee;
3. When the personal care home is owned by an association limited liability company (LLC), the governing body of the association or LLC shall authorize the application for the license and complete the statement of responsibility and the association shall serve as the licensee; and
4. When the personal care home is owned by a corporation, the governing body of the corporation shall authorize the application for the license and complete the statement of responsibility and the corporation shall serve as the licensee.

(e) "Chemical Restraint" means a psychopharmacologic drug that is used for discipline or convenience and not required to treat medical symptoms;

(f) "Criminal history background check" means a search as required by law of the criminal records maintained by law enforcement authorities to determine whether the applicant has a criminal record as defined in these rules and applicable laws.

(g) "Criminal record" means:

1. conviction of a crime; or
2. arrest, charge, and sentencing for a crime where:
 - (i) a plea of nolo contendere was entered to the charge; or
 - (ii) first offender treatment without adjudication of guilt pursuant to the charge was granted; or
 - (iii) adjudication or sentence was otherwise withheld or not entered on the charge; or
 - (iv) arrest and being charged for a crime if the charge is pending, unless the time for prosecuting such crime has expired pursuant to O.C.G.A. § 17-3-1 *et seq.*

(h) "Department" means the Department of Community Health of the State of Georgia;

- (i) "Director" means the chief administrator, executive officer or manager.
- (j) "Disabled adult" means an adult who is developmentally impaired or who suffers from dementia or some other cognitive impairment.
- (k) "Employee" means any person, other than a director, utilized by a personal care home to provide personal services to any resident on behalf of the personal care home or to perform at any facilities of the personal care home any duties which involve personal contact between that person and any paying resident of the personal care home.
- (l) "Fingerprint records check determination" means a satisfactory or unsatisfactory determination by the department based upon a records check comparison of Georgia Crime Information Center (GCIC) information with fingerprints and other information in a records check application.
- (m) "Governing Body" means the board of trustees or directors, the partnership, the corporation, the association, or the person or group of persons who maintain and control the home and who are legally responsible for the operation of the home;
- (n) "Legal Surrogate" means a duly appointed person who is authorized to act, within the scope of the authority granted under the legal surrogate's appointment, on behalf of a resident who is adjudicated or certified incapacitated. The legal surrogate may act on a resident's behalf where a resident has not been adjudicated as incapacitated provided that the action is consistent with the resident's wishes and intent and is within the scope of the authority granted. Where such authority is exercised pursuant to a Power of Attorney executed by a resident, the facility must maintain a copy of this document in the resident's files. The resident's duly appointed legal surrogate(s) shall have the authority to act on the resident's behalf as established by written applicable federal and state of Georgia law, and shall be entitled to receive information relevant to the exercise of his or her authority. No member of the governing body, administration, or staff of the personal care home or affiliated personal care homes or their family members may serve as the legal surrogate for a resident;
- (o) "Local law enforcement agency" means a local law enforcement agency with authorization to conduct criminal history background checks through the Georgia Crime Information Center (GCIC).
- (p) "Medical services" means services which may be provided by a person licensed under the Medical Practice Act O.C.G.A. § 43-34-20 *et seq.*;
- (q) "Memory care services" means the additional watchful oversight systems and devices that are required for residents who have cognitive deficits which may impact memory, language, thinking, reasoning, or impulse control, and which place the residents at risk of eloping, i.e. engaging in unsafe wandering activities outside the home.
- (r) "Memory care unit" means the specialized unit or home that either holds itself out as providing additional or specialized care to persons with diagnoses of probable Alzheimer's Disease or other dementia who may be at risk of engaging in unsafe wandering activities outside the unit or home (eloping) or charges rates in excess of those charged other residents because of cognitive deficits which may place the residents at risk of eloping.
- (s) "Non-Family Adult" means a resident 18 years of age or older who is not related by blood within the third degree of consanguinity or by marriage to the person responsible for the management of the personal care home or to a member of the governing body;

- (t) "Nursing services" means those services which may be rendered by a person licensed under the Nurse Practice Act of O.C.G.A. § 43-26-1 *et seq.*;
- (u) "On-site manager" means the administrator or person designated by the administrator as responsible for carrying on the day-to-day management, supervision, and operation of the personal care home, who may also serve as responsible staff person except during periods of his or her own absence;
- (v) "Owner" means any individual or any person affiliated with a corporation, partnership, or association with 10 percent or greater ownership interest in the business or agency licensed as a personal care home and who:
1. purports to or exercises authority of an owner in the business or agency; or
 2. applies to operate or operates the business or agency; or
 3. maintains an office on the premises of the facility; or
 4. resides at the facility; or
 5. has direct access to persons receiving care at the facility; or
 6. provides direct personal supervision of facility personnel by being immediately available to provide assistance and direction during the time such facility services are being provided; or
 7. enters into a contract to acquire ownership of such a business or agency.
- (w) "Permit" or "Regular Permit" means the authorization granted by the Department to the governing body to operate a Personal Care Home;
- (x) "Personal Care Home" means any dwelling, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food service, and one or more personal services for two or more adults who are not related to the owner or administrator by blood or marriage;
- (y) "Personal Services" includes, but is not limited to, individual assistance with or supervision of self-administered medication, assistance with ambulation and transfer, and essential activities of daily living such as eating, bathing, grooming, dressing, and toileting;
- (z) "Physical Restraints" are any manual or physical device, material, or equipment attached or adjacent to the resident's body that the individual cannot remove easily which restricts freedom or normal access to one's body. Physical restraints include, but are not limited to, leg restraints, arm restraints, hand mitts, soft ties or vests, and wheelchair safety bars. Also included as restraints are facility practices which function as a restraint, such as tucking in a sheet so tightly that a bedbound resident cannot move, bedrails, or chairs that prevent rising, or placing a wheelchair-bound resident so close to a wall that the wall prevents the resident from rising. Wrist bands or devices on clothing that trigger electronic alarms to warn staff that a resident is leaving a room do not, in and of themselves, restrict freedom of movement and should not be considered as restraints;
- (aa) "Plan of Correction" means a plan for correcting deficiencies in meeting rules and regulations of the Department of Community Health;
- (bb) "Preliminary records check application" means an application for a preliminary records check determination on forms provided by the department.
- (cc) "Preliminary records check determination" means a satisfactory or unsatisfactory determination by the department based only upon a comparison of Georgia Crime Information Center (GCIC) information with other than fingerprint information regarding the person upon whom the records check is being performed.

(dd) "Provides" means that the home makes personal services available to the residents. A home which represents itself by advertising or verbal communication that it provides personal assistance is deemed to make personal services available to its residents for the purposes of these Rules;

(ee) "Provisional Permit" means authorization granted by the Department to a governing body to operate a personal care home on a conditional basis;

(ff) "Records check application" means two sets of classifiable fingerprints, a records search fee to be established by the department by rule and regulation, payable in such form as the department may direct to cover the cost of a fingerprint records check, and an affidavit by the applicant disclosing the nature and date of any arrest, charge, or conviction of the applicant for the violation of any law; except for motor vehicle parking violations, whether or not the violation occurred in this state, and such additional information as the department may require.

(gg) "Representative" means a person who voluntarily, with the resident's written authorization, may act upon resident's direction with regard to matters concerning the health and welfare of the resident, including being able to access personal records contained in the resident's file and receive information and notices pertaining to the resident's overall care and condition. No member of the governing body, administration, or staff of the personal care home or affiliated personal care homes or their family members may serve as the representative for a resident;

(hh) "Resident" means any non-family adult receiving personal assistance and residing in a personal care home;

(ii) "Responsible Staff Person" means the employee designated by the administrator or on-site manager as responsible for supervising the operation of the home during periods of temporary absence of the administrator or on-site manager;

(jj) "Satisfactory criminal history background check determination" means a written determination that a person for whom a records check was performed was found to have no criminal record an arrest, charge or conviction of one of the covered crimes outlined in O.C.G.A. § 31-7-250 *et seq.*, if applicable, or as outlined in O.C.G.A. § 31-2-14, if applicable.

(kk) "Supportive Services" means specific services which are provided to the resident in the community or reasonably requested by a resident including but not limited to: mental health services, habilitation, rehabilitation, social services, medical, dental, and other health care services, education, financial management, legal services, vocational services, transportation, recreational and leisure activities; and other services required to meet a resident's needs.

(ll) "Unsatisfactory criminal history background check determination" means a written determination that a person for whom a records check was performed has a criminal record which indicates an arrest, charge or conviction of one of the covered crimes outlined in O.C.G.A. § 31-7-250 *et seq.*, if applicable, or as outlined in O.C.G.A. § 31-2-14, if applicable.

Authority O.C.G.A. Secs. 31-2-9, 31-2-14, 31-7-2.1, 31-7-3, 31-7-12, 31-7-250 *et seq.* **History.** Original Rule entitled "Definitions" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.04 Exemptions.

These regulations do not apply to the following facilities:

- (a) boarding homes or rooming houses which provide no personal services other than lodging and meals;
- (b) facilities offering temporary emergency shelter, such as those for the homeless and victims of family violence;
- (c) treatment facilities which provide medical and nursing services and which are approved by the state and regulated under other more specific authorities;
- (d) facilities providing residential services for federal, state or local correctional institutions under the jurisdiction of the criminal justice system;
- (e) hospices which serve terminally ill persons as defined in O.C.G.A. § 31-7-172(3);
- (f) therapeutic substance abuse treatment facilities which are not intended to be an individual's permanent residence;
- (g) group residences organized by or for persons who choose to live independently or who manage their own care and share the cost of services including but not limited to attendant care, transportation, rent, utilities and food preparation;
- (h) charitable organizations providing shelter and other services without charging any fee to the resident; or
- (i) any separate and distinct dwelling which is classified by the Department as a community living arrangement subject to the Rules and Regulations for Community Living Arrangements, Chapter 290-9-37. A facility classified as a Community Living Arrangement cannot be operated on the same premises as a personal care home.

Authority O.C.G.A. Secs. 31-2-4, 31-2-9, 31-7-2, 31-7-12, 31-7-172. **History.** Original Rule entitled "Exemptions" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009. adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.05 Application for Permit.

- (1) The governing body of each home shall submit to the Department an application for a permit to operate under these rules and regulations. No personal care home shall be operated and no residents admitted without such a permit which is current under these rules and regulations.
- (2) The application for a permit shall be made on forms provided by the Department.
- (3) A criminal record check application for the owner and director shall accompany applications.
- (4) Each application for a permit shall be accompanied by a floor sketch of the home showing windows, doors, room measurements, and bed placement for residents, family and/or staff and documentation of ownership or lease agreement for the property on which the home will be operated.
- (5) A listing of the names of all staff, including the administrator or on-site manager, who will be working in the home, if known, shall be included with the application for a permit. This listing shall include the full name of each staff person, their assigned duties in the home, their birth date and Social Security Number. If such information is not known at the time of application, it must be provided to the Department within 30 days of issuance of a provisional permit.
- (6) The ownership of the home shall be fully disclosed in its application for a permit. In the case of corporations, partnerships, and other bodies created by statute, the corporate officers and all other individuals or family groups owning ten percent or more of the corporate stock or ownership shall be disclosed in the application for a permit as well as the registered agent for service of process.
- (7) All others shall submit a statement attesting to the name(s) and address(es) of each person owning any part of the facility.
- (8) Local zoning and other local requirements regarding the proper location and establishment of homes shall be addressed by the applicant with the responsible local officials.
- (9) Personal care homes are expected to comply with all applicable provisions of the Americans With Disabilities Act and Section 504 of the Rehabilitation Act of 1973 and federal regulations promulgated thereunder. Any violation of these statutes or regulations may be grounds for the department to initiate action for sanction against such homes.

Authority O.C.G.A. Secs. 31-2-9, 31-2-14, 31-7-2.1, 31-7-3, 31-7-12, 31-7-264. **History.** Original Rule entitled "Application for Permit" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.06 Permits.

- (1) The governing body of each personal care home shall obtain a valid permit or provisional permit from the Department prior to beginning operation. To be eligible for a permit the home must be in compliance with these rules and regulations.
 - (2) The permit shall be displayed in a conspicuous place on the premises.
 - (3) Permits are not transferable from one home to another.
 - (4) A permit shall no longer be valid and shall be returned to the Department when the home ceases to operate, is moved to another location, the ownership changes, the governing body is significantly changed, or the permit is suspended or revoked.
 - (5) A permit shall be required for each home located on different premises where more than one home is operated under the same governing body.
 - (6) The permit shall state a maximum number of residents who may receive care at that location. No personal care home shall offer its services to more residents than its permitted capacity.
 - (7) A home which fails to comply with these rules and regulations shall be subject to the sanctions available to the Department pursuant to O.C.G.A. § 31-2-11, including but not limited to denial or revocation of its provisional permit or permit by the Department.
- Authority O.C.G.A. Secs. 31-2-9, 31-2-11, 31-7-1, 31-7-2.1, 31-7-12. **History.** Original Rule entitled "Permits" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.07 Provisional Permits.

(1) Provisional permits may be granted to the governing body of a home to provide time in which to demonstrate compliance with these rules and regulations.

(2) Provisional permits granted to allow a reasonable time to demonstrate compliance with operating procedures shall not exceed 6 months.

(3) Provisional permits granted to allow reasonable time to correct violations of regulations which relate to the structural or physical condition of the home shall not exceed 12 months.

(4) A provisional permit may be granted for 30 days pursuant to subsection (5) of .25 of these Rules to provide time for hiring of the administrator and staff and obtaining the required information.

(5) A provisional permit shall not be granted to the governing body of a home which has never been previously granted a permit and is not in compliance with the rules and regulations relating to the structural or physical condition of the home.

(6) A provisional permit shall not be issued to a personal care home in which there are conditions which present an immediate hazard to the life, health or safety of residents or staff.

(7) A provisional permit shall not be granted to a home unless the governing body shall first present to the Department an acceptable plan of correction which shall list each deficiency to be corrected, the time, methods, and procedures to be used in the correction of the deficiencies.

Authority O.C.G.A. Secs. 31-7-2.1, 31-7-3. **History.** Original Rule entitled "Provisional Permits" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.08 Governing Body.

(1) The governing body shall be responsible for compliance with the requirements of Chapter 7 of Title 31 of the Official Code of Georgia Annotated, with applicable administrative rules and regulations of the Department of Community Health, including but not limited to all applicable statutes, rules and regulations regarding disclosure of ownership.

(2) The governing body shall certify in its application the name of the administrator who has been designated as responsible for the overall management of the home and for carrying out the rules and policies adopted by the governing body.

(3) Each home shall have a separate administrator or on-site manager who works under the supervision of the administrator.

Authority O.C.G.A. Secs. 31-2-9, 31-7-1, 31-7-2.1, 31-7-12. **History.** Original Rule entitled "Governing Body" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.09 Administration.

- (1) Prior to being granted a permit each home shall develop a written Statement of policies and procedures outlining the responsibilities of the management and of the residents and which insure compliance with the Rules for Personal Care Homes. The statement shall include procedures for handling acts committed by staff or residents which are inconsistent with the policies of the home.
- (2) The administrator or on-site manager of each personal care home shall designate qualified staff as responsible staff to act on his or her behalf and to carry out his or her duties in the administrator or on-site manager's absence. No resident shall be designated as staff.
- (3) Personnel shall be assigned duties consistent with their position, training, experience, and the requirements of Rule 111-8-62-.10.
- (4) Each home shall have a written and regularly rehearsed disaster preparedness plan, approved by the Department, in compliance with O.C.G.A. § 31-7-3(c). Evacuation plan drills shall be held by each home at least semi-annually.
- (5) Each home shall have a currently listed telephone number and a telephone which is maintained in working order.

Authority O.C.G.A. Secs. 31-2-9, 31-7-1, 31-7-2.1, 31-7-3, 31-7-12. **History.** Original Rule entitled "Administration" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.10 Personnel.

- (1) The administrator, on-site manager and all other responsible staff persons working in a personal care home shall be at least 21 years of age and shall be responsible for supervising all other staff. No staff person under the age of 18 shall work except under the direct supervision of the administrator, on-site manager or a responsible staff person who is in the home.
- (2) The administrator or on-site manager shall be responsible for ensuring that any person working in the facility as an employee, under contract or otherwise, receives work-related training acceptable to the Department within the first sixty days of employment. Such training shall at a minimum include the following:
 - (a) current certification in emergency first aid except where the staff person is a currently licensed health care professional;
 - (b) current certification in cardiopulmonary resuscitation where the training course required return demonstration of competency;
 - (c) emergency evacuation procedures;
 - (d) medical and social needs and characteristics of the resident population;
 - (e) residents' right; and
 - (f) receiving a copy of the Long-term Care Facility Resident Abuse Reporting Act as outlined in O.C.G.A. § 31-8-81 *et seq.*
- (3) At least one staff person having completed the minimum training requirements of Rule 111-8-62-.10(2) 1. through 6. above shall be present in the home at all times resident(s) are present in the home.
- (4) All persons, including the administrator or on-site manager, who offer direct care to the residents, must satisfactorily complete a total of at least sixteen (16) hours of continuing education each year, in applicable courses approved by the Department, including, but not limited to working with the elderly, working with residents with Alzheimer's or other cognitive impairments, working with the mentally retarded, mentally ill and developmentally disabled, social and recreational activities, legal issues, physical maintenance and fire safety, housekeeping, or other topics as needed or as determined by the Department.
- (5) All persons, including the administrator or on-site manager, who offers direct care to the residents, shall be responsible for maintaining awareness of each resident's normal appearance and shall be capable of intervening if a resident's state of health appears to be in jeopardy.
- (6) The administrator, on-site manager, and each employee shall have received a tuberculosis screening and a physical examination by a licensed physician, nurse practitioner or physician's assistant within twelve months prior to employment (or initial application for permit or granting a permit to the home) sufficiently comprehensive to assure that the employee is free of diseases communicable within the scope of employment and physically qualified to work. Follow-up examinations shall be conducted by a licensed physician of each administrator or staff person to determine readiness to return to work following a significant illness or injury. Copies of information regarding staff member health shall be kept in the staff person's personnel folder.
- (7) **Criminal History Background Checks for Owners Required.** Prior to the issuance of any new license, the owner of the business or agency applying for the license shall

submit a fingerprint records check application so as to permit the department to obtain a criminal history background check.

(a) An owner may not be required to submit a records check application if it is determined that the owner does not do at least one of the following:

1. maintains an office at the location where services are provided to residents;
2. resides at a location where services are provided to residents;
3. has direct access to residents receiving care; nor
4. provides direct personal supervision of personnel by being immediately available to provide assistance and direction during the time services are being provided.

(b) In lieu of a records check application, the owner may submit evidence, satisfactory to the department, that within the immediately preceding 12 months the owner has received a satisfactory criminal history background check determination.

(c) A personal care home provider license shall not be issued, and any license issued shall be revoked where it has been determined that the owner has a criminal record involving any of the following covered crimes, as outlined in O.C.G.A. § 31-2-14:

1. a violation of O.C.G.A. § 16-5-1, relating to murder and felony murder;
2. a violation of O.C.G.A. § 16-5-21, relating to aggravated assault;
3. a violation of O.C.G.A. § 16-5-24, relating to aggravated battery;
4. a violation of O.C.G.A. § 16-5-70, relating to cruelty to children;
5. a violation of O.C.G.A. § 16-5-100, relating to cruelty to a person 65 years of age or older;
6. a violation of O.C.G.A. § 16-6-1, relating to rape;
7. a violation of O.C.G.A. § 16-6-2, relating to aggravated sodomy;
8. a violation of O.C.G.A. § 16-6-4, relating to child molestation;
9. a violation of O.C.G.A. § 16-6-5, relating to enticing a child for indecent purposes;
10. a violation of O.C.G.A. § 16-6-5.1, relating to sexual assault against persons in custody, detained persons, or patients in hospitals or other institutions;
11. a violation of O.C.G.A. § 16-6-22.2, relating to aggravated sexual battery;
12. a violation of O.C.G.A. § 16-8-41, relating to armed robbery;
13. a violation of O.C.G.A. § 30-5-8, relating to abuse, neglect, or exploitation of a disabled adult or elder person; or
14. any other offense committed in another jurisdiction that, if committed in this state, would be deemed to be a crime listed in this paragraph without regard to its designation elsewhere.

(d) An owner with a valid personal care home license issued on or before June 30, 2007 shall be required to obtain a fingerprint records check determination no later than December 31, 2008.

1. an owner with a valid personal care home license issued on or before June 30, 2007 who is determined to have a criminal record for any of the crimes listed in Rule 111-8-62-.10(7)(c)1. through 14. above, shall not have the license revoked prior to a hearing being held before a hearing officer pursuant to Chapter 13 of Title 50, the Georgia Administrative Procedure Act.
2. An owner with a valid personal care home license who acquires a criminal record for any of the crimes listed in Rule 111-8-62-.10(7)(c)1. through 14. above subsequent to the effective date of these rules shall disclose the criminal record to the department.

(e) If at any time the department has reason to believe an owner holding a valid license has been arrested, charged or convicted of any of the crimes listed above, the department shall require the owner to submit a records check application immediately for determination of whether a revocation action is necessary.

(8) Criminal History Background Checks for Directors, Administrators and Onsite Managers Required. Prior to serving as a director, administrator or onsite manager of a licensed personal care home, a person shall submit a records check application to the department.

(a) In lieu of a records check application, the director, administrator or onsite manager may submit evidence, satisfactory to the department, that within the immediately preceding 12 months the above personnel have received a satisfactory records check determination or a satisfactory preliminary records check determination, whichever is applicable.

(b) A person with an unsatisfactory criminal history background check determination may not serve as a director of a licensed personal care home if it is determined that such person has a criminal record involving of the following covered crimes, as outlined in O.C.G.A. § 31-7-250:

1. a violation of O.C.G.A. § 16-5-21, relating to aggravated assault;
2. a violation of O.C.G.A. § 16-5-24, relating to aggravated battery;
3. a violation of O.C.G.A. § 16-6-1, relating to rape;
4. a felony violation of O.C.G.A. § 16-8-2, relating to theft by taking;
5. a felony violation of O.C.G.A. § 16-8-3, relating to theft by deception;
6. a felony violation of O.C.G.A. § 16-8-4, relating to theft by conversion;
7. a violation of O.C.G.A. § 16-9-1 or 16-9-2, relating to forgery in the first and second degree, respectively;
8. a violation of O.C.G.A. § 16-5-1, relating to murder and felony murder;
9. a violation of O.C.G.A. § 16-4-1, relating to criminal attempt as it concerns attempted murder;
10. a violation of O.C.G.A. § 16-8-40, relating to robbery;
11. a violation of O.C.G.A. § 16-8-41, relating to armed robbery;
12. a violation of Chapter 13 of Title 16, relating to controlled substances;
13. a violation of O.C.G.A. § 16-5-23.1, relating to battery;
14. a violation of O.C.G.A. § 16-6-5.1, relating to sexual assault against a person in custody;
15. a violation of O.C.G.A. § 30-5-8, relating to abuse, neglect, or exploitation of a disabled adult or elder person; or
16. any other offense committed in another jurisdiction which, if committed in this state, would be deemed to be such a crime without regard to its designation elsewhere.

(c) The department may require a fingerprint records check for any director, administrator or onsite manager when the department has reason to believe that the director, administrator or onsite manager has a criminal record.

(9) Criminal History Background Checks for Employees Required. Prior to serving as an employee other than a director of a licensed personal care home, a person must receive a satisfactory criminal history background check determination from a local law enforcement agency.

(a) A person with an unsatisfactory background check determination may not serve as an employee of a licensed personal care home if it is determined that such person has a criminal record involving any of the covered crimes outlined in O.C.G.A. §§ 31-7-250 and in Rule 111-8-62-.10(8)(b)1. through 16. above, unless an administrative law judge has determined that the employee is authorized to work in the personal care home.

(b) Where an applicant for employment has not been a resident of the state for three years preceding the application for employment, the personal care home shall obtain a criminal history background check from the local law enforcement agency of the applicant's previous state of employment.

(c) The department may require a fingerprint records check for any employee when the department has reason to believe that the employee has a criminal record.

(10) An employment history for each person working in the home must be verified by the administrator or on-site manager and on file in the home.

(11) A personnel file shall be maintained in the home for each employee. These files shall be available for inspection by the appropriate enforcement authorities but shall otherwise be maintained to protect the confidentiality of the information contained in them, and shall include the following:

(a) evidence of a satisfactory fingerprint record check determination or a satisfactory criminal history background check determination;

(b) report of physical examination completed by a licensed physician, nurse practitioner or physician's assistant;

(c) for administrators, on-site managers and staff persons, evidence of first aid and cardiopulmonary resuscitation training and recertification as required; and

(d) employment history, including previous places of work and employers.

(12) No administrator, on-site manager, or staff person shall be under the influence of alcohol or other controlled substances while at the home.

Authority O.C.G.A. Secs. 31-2-9, 31-2-14, 31-7-2.1, 31-7-12, 31-7-250 et seq. **History.** Original Rule entitled "Personnel" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.11 Staffing.

(1) The home shall have as many employees on duty at all times as may be needed to properly safeguard the health, safety and welfare of the residents, as required by these regulations. As a minimum the following shall be observed:

(a) At least one administrator, on-site manager, or a responsible staff person shall be on the premises twenty-four (24) hours per day. Residents shall not be left unsupervised. A minimum on-site staff to resident ratio shall be one (1) staff person per fifteen (15) residents during waking hours and one (1) staff person per twenty-five (25) residents during non-waking hours;

(b) For purposes of these regulations, a resident shall not be considered a staff person; and

(c) All personal care homes must maintain a monthly work schedule for all employees, including relief workers, showing adequate coverage for each day and night.

(2) Sufficient staff time shall be available to insure that each resident:

(a) receives treatments, medications and diet as prescribed;

(b) receives proper care to prevent decubitus ulcers and contractures;

(c) is kept comfortable and clean;

(d) is treated with dignity, kindness, and consideration and respect.

(e) is protected from injury and infection;

(f) is given prompt, unhurried assistance if she or he requires help with eating; and

(g) is given assistance, if needed, with daily hygiene, including baths and oral care.

Authority O.C.G.A. Secs. 31-2-9, 31-7-1, 31-7-2.1, 31-7-12. **History.** Original Rule entitled "Staffing" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.12 Inspections.

(1) The home and its records shall be available for review and examination by properly identified representatives of the Department. Inspections may be conducted both on an announced and unannounced basis. Unannounced inspections shall be conducted as needed.

(2) A copy of the inspection report shall be displayed in a conspicuous place on the premises and also shall be available for public inspection at the appropriate county wherein the personal care home is located.

Authority O.C.G.A. Secs. 31-2-9, 31-7-1, 31-7-2.1, 31-7-3, 31-7-12. **History.** Original Rule entitled "Inspections" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.13 Minimum Floor Plan Requirements.

- (1) A home shall be so constructed, arranged, and maintained as to provide adequately for the health, safety, access and well-being of the residents.
- (2) A home shall provide separate and distinct living and sleeping areas;
 - (a) The living and sleeping areas for a given resident shall be in adjoining wings, units or buildings, which allow for necessary supervision and assistance by staff.
 - (b) Openable windows used for ventilation to the outside and exterior doors used for ventilation shall be screened and in good repair.
 - (c) Supportive devices, excluding physical restraints, such as handrails and grab bars shall be installed to enable residents to achieve a greater degree of mobility and safety from falling;
- (3) All homes shall provide an area for use by residents and visitors which affords privacy.
- (4) There must be at least one centrally located living room for the free access to and informal use of the residents.
- (5) At least one current calendar and working clock shall be placed in the common living area of each home.
- (6) Living rooms must be large enough to accommodate the residents without crowding. The rooms must be comfortably and attractively furnished, well heated, lighted, ventilated and clean.
- (7) A comfortable dining area adequate in size for the number of residents being served shall be provided.
- (8) The home shall provide a means of locked storage for any resident's valuables or personal belongings, upon request.
- (9) A living room, dining room, hallway, or other room not ordinarily used for sleeping shall not be used for sleeping by residents, family or staff.
- (10) A home shall provide laundering facilities on the premises for residents' personal laundry.
- (11) The following minimum standards for resident bedrooms must be met:
 - (a) Bedrooms shall have at least 80 square feet of usable floor space per resident. Usable floor space is defined as that floor space under a ceiling at least seven feet in height. The following exception applies to the minimum of 80 square feet of floor space requirement: personal care homes holding permits at the time of adoption of these Rules may have bedrooms with a minimum of 70 square feet of usable floor space per resident. The regular floor space requirements must be met if a home falling under this exception has its permit revoked, changes ownership, changes location, or for any other reason surrenders its permit to the state.
 - (b) There shall be no more than four residents per bedroom;
 - (c) Each bedroom shall have at least one window opening easily to the outside. Bedrooms shall be well ventilated and maintained at a comfortable temperature;
 - (d) Spouses shall be permitted, but not required to share a bedroom.
 - (e) Bedrooms for residents shall be separated from halls, corridors and other rooms by floor to ceiling walls. Hallways shall be not used for sleeping;
 - (f) The floor plan shall be such that no person other than the resident assigned to a bedroom should pass through that resident's bedroom in order to reach another room;

(g) Doorways of bedrooms occupied by residents shall be equipped with side-hinged permanently mounted doors equipped with positively latching hardware which will insure opening of the door by a single motion, such as turning a knob or by pressing with normal strength on a latch. For bedrooms which have locks on doors, both the occupant and administrator or on-site manager must be provided with keys to assure easy entry and exit;

(h) A room shall not be used as a bedroom where more than one-half the room height is below ground level. Bedrooms which are partially below ground level shall have adequate natural light and ventilation and be provided with two useful means of egress. Control of dampness shall be assured; and

(i) When a resident is discharged, the room and its contents shall be thoroughly cleaned.

(12) The following minimum standards apply to bathroom facilities:

(a) At least one functional toilet and lavatory shall be provided for each four residents and at least one bathing or showering facility shall be provided for each eight residents living in a home;

(b) At least one toilet and lavatory shall be provided on each floor having residents' bedrooms;

(c) Grab bars and nonskid surfacing or strips shall be installed in all showers and bath areas;

(d) Bathrooms and toilet facilities without windows shall have forced ventilation to the outside. Bathroom windows used for ventilation shall open easily;

(e) Toilets, bathtubs and showers shall provide for individual privacy; and

(f) All plumbing and bathroom fixtures shall be maintained in good working order at all times and shall present a clean and sanitary appearance.

(13) All stairways and ramps shall have sturdy and securely fastened handrails, not less than 30 inches nor more than 34 inches above the center of the tread. Exterior stairways, decks and porches shall have handrails on the open sides;

(14) Floor covering shall be intact and securely fastened to the floor. Any hazard that may cause tripping shall be removed;

(15) All areas including hallways and stairs shall be lighted sufficiently with bulbs of at least 60 watts;

(16) The following exterior conditions must be maintained:

(a) Entrances and exits, sidewalks, and escape routes shall be constantly maintained free of all impediments to full instant use in the case of fire or other emergency and shall be kept free of any hazards such as ice, snow, debris or furniture;

(b) A yard area shall be kept free from all hazards, nuisances, refuse and litter;

(c) The home must have its house number or name displayed so as to be easily visible from the street.

Authority O.C.G.A. Secs. 31-2-9, 31-7-1, 31-7-2.1, 31-7-12. **History.** Original Rule entitled "Minimum Floor Plan Requirements" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.14 Physical Plant Health and Safety Standards.

- (1) Each home shall be in compliance with fire and safety rules promulgated by the Office of the Safety Fire Commissioner for personal care homes,
- (2) Each home shall comply and remain in compliance with any and all local ordinances that specifically address fire safety in homes of that size and function. Private quarters shall be maintained in such a manner as to comply with Fire Safety codes and not threaten the health or safety of residents. In the absence of or in addition to any such local ordinances, the following requirements must be met:
 - (a) Wall type electric outlets and lamps or light fixtures shall be maintained in a safe and operating condition. It shall be the home's responsibility to insure that the necessary light bulbs are provided;
 - (b) Cooking appliances shall be suitably installed in accordance with approved safety practices. Where metal hoods or canopies are provided, they shall be equipped with filters which shall be maintained in an efficient condition and kept clean at all times;
 - (c) Space heaters may not be used unless safely positioned and operated in compliance with all state and local fire codes and in accordance with manufacturer's instructions. Space heaters using combustible fuel shall be vented to the outside.
 - (d) Fire screens and protective devices shall be used with fireplaces, stoves and heaters, including space heaters;
 - (e) Each home must be protected with sufficient smoke detectors, powered by house electrical service with battery back-up, which when activated shall initiate an alarm which is audible in the sleeping rooms;
 - (f) Each home must have at least one charged 10 lb. multipurpose ABC fire extinguisher on each occupied floor and in the basement. These extinguishers shall be checked annually to assure they remain in operable condition;
 - (g) Each home shall have a working doorbell or doorknocker which is audible to staff inside at all times; and
 - (h) Exterior doors shall be equipped with locks which do not require keys to open them from the inside.
- (3) The electrical service of the home shall be inspected by a qualified electrician and declared free of hazards within no more than six months prior to the date of filing the application for a permit. A signed copy of this inspection report shall be submitted to the Department as a part of the application. Electrical service shall be maintained in a safe condition at all times. The Department may require a re-inspection of the electrical service at any time renovation or repair work is done in the home or there is a request for a change in capacity or there is reason to believe that a risk to residents exists.
- (4) The Department may request a repeat fire safety inspection of any personal care home if at any time the physical plant undergoes substantial repair, renovation, additions, or the Department has reason to believe that residents are at risk. Further, if the Department determines that a substantial increase in the amount of personal assistance is being offered to residents, a repeat fire safety inspection may be requested. All requirements so identified shall be met by the home.
- (5) Water and sewage systems shall meet applicable federal, state, and local standards and/or regulations.
- (6) Floors, walls, and ceilings shall be kept clean and in good repair.

- (7) Kitchen and bathroom areas shall be cleaned with disinfectant at least daily and maintained to insure cleanliness and sanitation.
- (8) The storage and disposal of bio-medical and hazardous wastes shall comply with applicable federal, state, and local rules and/or standards.
- (9) Solid waste which is not disposed of by mechanical means shall be stored in vermin-proof, leak-proof, nonabsorbent containers with closefitting covers until removed. Waste shall be removed from the kitchen at least daily and from the premises at least weekly.
- (10) An insect, rodent or pest control program shall be maintained and conducted in a manner which continually protects the health of residents.
- (11) Any pets living at the home must meet the following requirements:
 - (a) No vicious animals shall be kept at the home;
 - (b) All animals must be inoculated for rabies yearly;
 - (c) Exotic animals must be obtained from federally approved sources.
- (12) Poisons, caustics, and other dangerous materials shall be stored and safeguarded in an area away from food preparation and storage areas, and away from medication storage areas.
- (13) A home shall be equipped and maintained so as to provide a sufficient amount of hot water for residents' use. Heated water provided for resident's use shall not exceed 120 degrees F. at the hot water fixture and a water temperature monitor shall be installed at the hot water fixture.
- (14) The following evacuation requirements must be met:
 - (a) Residents who need assistance with ambulation shall be assigned bedrooms which have a ground-level exit to the outside or to rooms with above ground level which have exits with easily negotiable ramps or easily accessible elevators;
 - (b) There shall be an established procedure and mechanism for alerting and caring for residents in case of emergencies and evacuating them to safety. This shall include instructions and evacuation plans posted on each floor of a home. Each sleeping room shall have a secondary exit. This secondary exit may be a door or a window usable for escape. A plan showing these routes of escape shall be posted in the home on each floor;
 - (c) A home serving a person or persons dependent upon wheelchairs for mobility shall provide at least two (2) exits from the home, remote from each other, that are accessible to these persons; and
 - (d) A home serving persons dependent upon a wheelchair for mobility shall have a clearly accessible route for emergencies throughout the common areas of the home, and at least one fully accessible bathroom.

Authority O.C.G.A. Secs. 31-2-9, 31-7-1, 31-7-2.1, 31-7-12. **History.** Original Rule entitled "Physical Plant Health and Safety Standards" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.15 Furnishings and Fixtures.

- (1) Furnishings of the home in the living room, bedroom and dining room shall be maintained in good condition, intact, and functional.
- (2) Furnishings and housekeeping standards shall be such that a home presents a clean and orderly appearance.
- (3) Resident bedroom furnishings shall include the following:
 - (a) an adequate closet or wardrobe;
 - (b) lighting fixtures sufficient for reading and other resident activities;
 - (c) a bureau or dresser or the equivalent and at least one chair with arms per resident in each bedroom;
 - (d) a mirror appropriate for grooming;
 - (e) an individual bed at least 36-inches wide and 72-inches long with comfortable springs and mattress, clean and in good condition. The mattress shall be not less than five-inches thick, or four-inches, if of a synthetic construction. Couples may request a double bed when available. Roll-a-ways, cots, double-decks, stacked bunks, hide-a-beds and studio couches are not to be used in lieu of standard beds; and
 - (f) bedding for each resident which includes two sheets, a pillow, a pillow case, a minimum of one blanket and bedspread. A home shall maintain a linen supply for not less than twice the bed capacity. A home shall provide each resident clean towels and wash cloths at least twice weekly and more often if soiled. Bed linen shall be changed at least weekly or more often in soiled.
- (4) Provision shall be made for assisting a resident to personalize the bedroom by allowing the use of his or her own furniture if so desired and mounting or hanging pictures on bedroom walls.

Authority O.C.G.A. Secs. 31-2-9, 31-7-1, 31-7-2.1, 31-7-12. **History.** Original Rule entitled "Furnishings and Fixtures" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.16 Admission.

(1) Criteria for admission to a home are as follows:

- (a) Persons admitted to a personal care home must be at least 18 years of age;
- (b) The home shall admit or retain only ambulatory residents;
- (c) The home shall not admit, or retain persons who require the use of physical or chemical restraints, isolation, or confinement for behavioral control;
- (d) Persons admitted to a home may not be confined to bed and may not require continuous medical or nursing care and treatment;
- (e) Medical, nursing, health or supportive services required on a periodic basis, or for short-term illness, shall not be provided as services of the home. When such services are required, they shall be purchased by the resident or the resident's representative or legal surrogate, if any, from appropriately licensed providers managed independently for the home. The home may assist in arrangement for such services, but not provision of those services.

(2) No home shall admit or retain a resident who needs care beyond which the facility is permitted to provide. Applicants requiring continuous medical or nursing services shall not be admitted or retained.

(3) The administrator or on-site manager of a home shall conduct an interview with the applicant and/or representative or legal surrogate, if any, of the applicant to ascertain that the home can meet the applicant's needs. The administrator or on-site manager shall require the applicant to provide the home with a physical examination conducted by a by a licensed physician, nurse practitioner or physician's assistant dated within 30 days prior to the date of admission. A resident admitted pursuant to an emergency placement made by the Adult Protective Services Section of the Department of Family and Children Services shall receive a physical examination within 14 days of the emergency admission. The following information is required:

- (a) the signature, address, and telephone number of the examining physician;
- (b) a description of physical and mental health status including diagnosis and any functional limitation;
- (c) recommendations for care including medication, diet, and medical, nursing, health, or supportive services which may be needed on a periodic basis;
- (d) a statement that, on the day the examination is given:
 - 1. continuous 24 hour nursing care is not needed;
 - 2. the person's needs can be met in a facility that is not a medical or nursing facility;
 - 3. The person has received screening for tuberculosis within twelve (12) months of admission and has no apparent signs or symptoms of infectious disease which is likely to be transmitted to other residents or staff;
 - 4. The person may need personal assistance with some activities of daily living.
- (e) If the above information is not contained in the report of the physical examination, the administrator or on-site manager shall obtain the above information from the resident's physician. Such information shall be recorded in the resident's file. In the event a resident develops a significant change in physical or mental condition, the governing body shall be required to provide the Department, upon request, with a current physical examination from a physician indicating the resident's continued ability to meet the requirements of the home.

Authority O.C.G.A. Secs. 31-2-9, 31-7-1, 31-7-2.1, 31-7-12. **History.** Original Rule entitled “Admission” adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.17 Admission Agreement.

(1) A written admission agreement shall be entered into between the governing body and the resident. Such agreement shall contain the following:

- (a) A current statement of all fees and daily, weekly or monthly charges; any other services which are available on an additional fee basis, for which the resident must sign a request acknowledging the additional cost and the services provided in the home for that charge;
- (b) A statement that residents and their representatives or legal surrogates shall be informed, in writing, at least sixty (60) days prior to changes in charges or services;
- (c) The resident's authorization and consent to release medical information to the home as needed;
- (d) Provisions for the administrator or on-site manager's continuous assessment of the resident's needs, referral for appropriate services as may be required if the resident's condition changes and referral for transfer or discharge if required due to a change in the resident's condition;
- (e) Provision for transportation of residents for shopping, recreation, rehabilitation and medical services, which shall be available either as a basic service or on a reimbursement basis, and providing that transportation for emergency use shall be available at all times;
- (f) A statement of the home's refund policy when a resident is transferred or discharged;
- (g) A statement that a resident may not be required to perform services for the home except as provided for in the admission agreement or a subsequent written agreement. A resident and administrator or on-site manager may agree in writing that a resident will perform certain activities or services in the home if the resident volunteers or is compensated at or above prevailing rates in the community; and
- (h) A copy of the house rules, which must be in writing and also posted in the facility. House rules must be consistent with residents' rights. House rules shall include, but not be limited to, policies regarding the use of tobacco and alcohol, the times and frequency of use of the telephone, visitors, hours and volume for viewing and listening to television, radio and other audiovisual equipment, and the use of personal property.

(2) Each resident, prior to the execution of the admissions agreement, shall have an opportunity to read the agreement. In the event that a resident is unable to read the agreement, the administrator or on-site manager shall take special steps to assure communication of its contents to the resident.

(3) The resident and representative or legal surrogate, if any, shall each be given a signed copy of the agreement and a copy signed by both parties (resident and administrator or on-site manager) shall be retained in the resident's file and maintained by the administrator or on-site manager of the home.

Authority O.C.G.A. Secs. 31-2-9, 31-7-1, 31-7-2.1, 31-7-12. **History.** Original Rule entitled "Admission Agreement" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.18 Services.

(1) Each personal care home shall provide room, meals and personal services to the residents of the home which are commensurate with the needs of the individual residents. The personal services shall include 24 hour responsibility for the well-being of the residents. Each home shall provide individual residents protective care and watchful oversight including but not necessarily limited to, a daily awareness by the management of resident's functioning, his or her whereabouts, the making and reminding a resident of medical appointments, the ability and readiness to intervene if a crisis arises for a resident, supervision in areas of nutrition, medication and actual provision of supportive medical services. Personal services shall be provided by the administrator or on-site manager or by appropriately qualified staff designated by the administrator or on-site manager.

(2) Assistance shall be given to those residents who are unable to keep themselves neat and clean.

(3) Each home shall provide sufficient activities to promote the physical, mental and social well-being of each resident.

(4) Each home shall provide as a minimum, books, newspapers, and games for leisure time activities. Each home shall encourage and offer assistance to residents who wish to participate in hobbies, music, arts and crafts, religion, games, sports, social, recreational and cultural activities available in the home and in the community.

(5) Each home shall have at least one operable, non-pay telephone which is accessible at all times for emergency use by staff. Residents shall have access to an operable, non-pay telephone in a private location, both to make and receive personal calls. The same telephone may meet all the requirements of this section.

(6) The routine of the home shall be such that a resident may spend the majority of his or her non-sleeping hours out of the resident's bedroom, if he or she so chooses.

(7) At no time may a home restrict a resident's free access to the common areas of the home or lock the resident into or out of the resident's bedroom.

Authority O.C.G.A. Secs. 31-2-9, 31-7-1, 31-7-2.1, 31-7-12. **History.** Original Rule entitled "Services" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.19 Requirements for Memory Care Services.

(1) A home which serves residents with cognitive deficits which place the residents at risk of eloping, i.e. engaging in unsafe wandering activities outside the home must do the following:

(a) develop, train and enforce policies and procedures for staff to deal with residents who may elope from the facility including what actions, as specified in rule XXXX are to be taken if a resident elopes from the facility.

(b) utilize appropriate effective safety devices, which do not impede the residents' rights to mobility and activity choice or violate fire safety standards, to protect the residents who are at risk of eloping from the premises.

1. If the safety devices include locks used on exit doors, as approved by the fire marshal having jurisdiction over the home, then the locking device shall be electronic and release whenever the following occurs: activation of the fire alarm or sprinkler system, power failure to the facility or by-pass for routine use by the public and staff for service using a key button/key pad located at the exit or continuous pressure for thirty (30) seconds or less.

2. If the safety devices include the use of keypads to lock and unlock exits, then directions for their operations shall be posted on the outside of the door to allow individuals' access to the unit. However, if the unit is a whole facility, then directions for the operation of the locks need not be posted on the outside of the door. The units shall not have entrance and exit doors that are closed with non-electronic keyed locks nor shall a door with a keyed lock be placed between a resident and the exit.

(2) A home serving residents who are at risk of eloping from the premises shall retain on file at the facility a current picture of any resident at risk of eloping.

Authority O.C.G.A. Secs. 31-2-9, 31-7-1, 31-7-2.1, 31-7-12. **History.** Original Rule entitled "Requirements for Memory Care Services" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.20 Additional Requirements for Specialized Memory Care Units or Homes.

(1) In addition to all other requirements contained in this Chapter, where a home holds itself out as providing additional or specialized care to persons with probable diagnoses of Alzheimer's Disease or other dementia or charges rates in excess of that charged other residents because of cognitive deficits which may place the residents at risk of eloping, the home shall meet these additional requirements:

(a) **Written Description.** The home shall develop an accurate written description of the special care unit that includes the following:

1. a statement of philosophy and mission;
2. how the services of the special care unit are different from services provided in the rest of the assisted living program if;
3. staffing including job titles of staff who work in the Unit, staff training and continuing education requirements;
4. admission procedures, including screening criteria;
5. assessment and service planning protocol, including criteria to be used that would trigger a reassessment of the resident's status before the customary quarterly review;
6. staffing patterns, including the ratio of direct care staff to resident for a 24-hour cycle, and a description of how the staffing pattern differs from that of the rest of the program;
7. a description of the physical environment including safety and security features;
8. a description of activities, including frequency and type, how the activities meet the needs of residents with dementia, and how the activities differ from activities for residents in other parts of the facility;
9. the program's fee or fee structure for all services provided by the unit or facility;
10. discharge criteria and procedures;
11. the procedures that will be utilized for handling emergency situations; and
12. the involvement of the Unit with families and family support programs.

(b) **Disclosure of Description.** An assisted living program with an Alzheimer's special care unit shall disclose the written description of the special care unit to:

1. any person on request; and
2. the family or resident's representative before admission of the resident to the Memory Care Unit or program.

(c) **Physical Design, Environment, and Safety.** The memory care unit or special care unit shall be designed to accommodate residents with severe dementia or Alzheimer's Disease in a home-like environment which includes the following:

1. multipurpose room(s) for dining, group and individual activities which are appropriately furnished to accommodate the activities taking place;
2. secured outdoor spaces and walkways which are wheel chair accessible and allow residents to ambulate safely but prevent undetected egress;
3. high visual contrasts between floors and walls and doorways and walls in resident use areas except for fire exits, door and access ways which may be designed to minimize contrast to conceal areas where the residents should not enter;
4. adequate and even lighting which minimizes glare and shadows;

5. the free movement of the resident, as the resident chooses, between the common space and the resident's own personal space in a bedroom that accommodates no more than two (2) residents;
6. individually identified entrances to residents' rooms to assist residents in readily identifying their own personal spaces;
7. an effective automated device or system to alert staff to individuals entering or leaving the building in an unauthorized manner. A facility need not use an automated alert for an exit door when the particular exit is always staffed by a receptionist or other staff member who views and maintains a log of individuals entering and leaving the facility. If the exit door is not always staffed, then the facility must activate an automated alert when the door is not attended;
8. communication system(s) which permit staff in the unit to communicate with other staff outside the unit and with emergency services personnel as needed; and
9. a unit or home which undergoes major renovation or is first constructed after the effective date of these rules, the unit shall be designed and constructed in compliance with the current "*Guidelines for Design and Construction of Healthcare Facilities*", applicable to assisted living facilities with particular attention to the requirements for a facility choosing to provide Alzheimer's and dementia care, published by the American Institute of Architects Press.

(d) Staffing and Initial Staff Orientation. The home shall ensure that the contained unit is staffed with sufficient specially trained staff to meet the unique needs of the residents in the unit, including the following:

1. a licensed registered nurse or a licensed practical nurse who is working under the supervision of a licensed physician or registered nurse shall administer medications to the residents who are incapable of self-administration of medications;
2. at least one awake staff member who is supervising the unit at all times and sufficient numbers of trained staff on duty at all times to meet the needs of the residents;
3. staff who, prior to caring for residents independently, have successfully completed an orientation program that includes at least the following components in addition to the general training required in Rule 111-8-62-.10:
 - (i) the facility's philosophy related to the care of residents with dementia in the unit;
 - (ii) the facility's policies and procedures related to care in the unit and the staff's particular responsibilities including wandering and egress control; and
 - (iii) an introduction to common behavior problems characteristic of residents residing in the unit and recommended behavior management techniques.

(e) Initial Staff Training. Within the first six months of employment, staff assigned to the Unit shall receive training in the following topics:

1. the nature of Alzheimer's Disease and other dementias, including the definition of dementia, the need for careful diagnosis and knowledge of the stages of Alzheimer's Disease;
2. common behavior problems and recommended behavior management techniques;
3. communication skills that facilitate better resident-staff relations;
4. positive therapeutic interventions and activities such as exercise, sensory stimulation, activities of daily living skills;
5. the role of the family in caring for residents with dementia, as well as the support needed by the family of these residents;

6. environmental modifications that can avoid problematic behavior and create a more therapeutic environment;
7. development of comprehensive and individual service plans and how to update or provide relevant information for updating and implementing them consistently across all shifts, including establishing a baseline and concrete treatment goals and outcomes;
8. new developments in diagnosis and therapy that impact the approach to caring for the residents in the special unit;
9. skills for recognizing physical or cognitive changes in the resident that warrant seeking medical attention; and
10. skills for maintaining the safety of residents with dementia.

(f) **Special Admission Requirements for Unit Placement.** Ninety days after the effective date of these rules, residents first admitted to the memory care unit, shall have a physician's report of physical examination completed within 30 days prior to admission on forms provided by Department. The physical examination must clearly reflect that the resident has a diagnosis of probable Alzheimer's Disease or other dementia and has symptoms which demonstrate a need for placement in the specialized unit. However, the unit may also care for a resident who does not have a probable diagnosis of Alzheimer's Disease or other dementia, but desires to live in the unit as a companion to a resident with a probable diagnosis of Alzheimer's Disease or other dementia with whom the resident has a close personal relationship. In addition, the physical examination report must establish that each potential resident of the unit does not require 24-hour skilled nursing care.

(g) **Post-Admission Assessment.** The facility shall assess each resident's care needs to include the following components: resident's family supports, level of activities of daily living functioning, physical care needs and level of behavior impairment.

(h) **Individual Service Plans.** The post-admission assessment shall be used to develop the resident's individual service plan within 14 days of admission. The service plan will be developed by a team with at least one member of the direct care staff participating and input from each shift of direct care staff that provides care to the resident. All team members participating shall sign the service plan and the service plan will be shared with the direct care staff providing care to the resident and serve as a guide for the delivery of services to the resident. The service plan shall include the following:

1. a description of the resident's care and social needs and the services to be provided, including frequency to address care and social needs;
2. resident's particular preferences regarding care, activities and interests;
3. specific behaviors to be addressed with interventions to be used;
4. names of staff primarily responsible for implementing the service plan;
5. evidence of family involvement in the development of the plan when appropriate; and
6. evidence of the service plan being updated at least quarterly or more frequently if needs of resident change substantially.

(i) **Therapeutic Activities.** The unit shall provide activities appropriate to the needs of the individual residents and adapt the activities, as necessary, to encourage participation of the residents in the following at least weekly with at least some therapeutic activities occurring daily:

1. gross motor activities; e.g. exercise, dancing, gardening, cooking, etc;
2. self-care activities; e.g. dressing, personal hygiene/grooming;

3. social activities; e.g. games, music;
4. crafts; e.g. decorations, pictures;
5. sensory enhancement activities, e.g. distinguishing pictures and picture books, reminiscing and scent and tactile stimulation; and
6. outdoor activities; e.g. walking outdoors, field trips.

(2) Ninety days after the effective date of these rules, no licensed personal care home shall hold itself out as providing specialized care for residents with probable Alzheimer's disease or other dementia or charge a differential rate for care of residents with cognitive deficits that place the residents at risk of engaging in unsafe wandering activities (eloping) unless it meets the additional requirements specified in Rule 111-8-62-.20(1) and its subparagraphs (a) through (i) above.

Authority O.C.G.A. Secs. 31-2-9, 31-7-1, 31-7-2, 31-7-2.1, 31-7-12, 31-8-180 et seq., 43-26-32. **History.** Original Rule entitled "Additional Requirements for Specialized Memory Care Units or Homes" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.21 Medications.

(1) All medications required by a resident in a personal care home shall be self-administered by the resident except when a resident, although generally capable of self-administration, requires administration of oral or topical medication by or under supervision of a functionally literate staff person, through arrangements made by the resident or the home. Injectable medications may only be self-administered or administered by an appropriately licensed person with the following exceptions:

(a) Administration of epinephrine under established medical protocol to residents with a known anaphylactic reaction; and

(b) Administration of insulin under established medical protocol by a staff person provided that the resident's personal physician has designated a staff person or persons who have been trained and are qualified to administer the insulin to that particular resident. A statement from the resident's physician certifying which staff person or persons have been trained must be maintained in the resident's file.

(2) Responsibility for initial acquisition and refilling of prescribed medications shall be specifically assigned in the admission agreement to either the resident, representative or legal surrogate, if any, or the administrator or on-site manager.

(3) A resident who is not capable of independent self-administration of medication may be assisted and supervised in self-administration by staff to the following extent:

(a) He or she may be reminded of the time to take medication;

(b) The medication regimen as indicated on the container label may be read to him or her;

(c) The dosage he or she self-administers may be checked according to the container label; and (d) He or she may be physically assisted in pouring or otherwise taking medication.

(4) Storage of Medications:

(a) Medications shall be stored under lock and key at all times whether kept by a resident or kept by the home for the resident, except when required to be kept by a resident on his or her person due to need for frequent or emergency use, as determined by the resident's physician, or when closely attended by a staff member; and

(b) Medication kept by a resident may be stored in the resident's bedroom, in a locked cabinet or other locked storage container. Single occupancy bedrooms which are kept locked at all times are acceptable. Duplicate keys shall be available to the resident and the administrator, on-site manager or designated staff.

(5) Medications shall be kept in original containers with original label intact.

(6) Medications shall be properly labeled and handled in accordance with current applicable laws and regulations.

Authority O.C.G.A. Secs. 31-2-9, 31-7-1, 31-7-2.1, 31-7-12. **History.** Original Rule entitled "Medications" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.22 Nutrition.

(1) A minimum of three regularly scheduled, well-balanced, meals shall be assured seven days a week. Not more than fourteen hours shall elapse between the substantial evening and morning meal. Meals shall meet the general requirements for nutrition published by the Department or currently found in the Recommended Daily Diet Allowances, Food and Nutrition Board, National Academy of Sciences. Meals shall be of sufficient quantity, proper form, consistency and temperature. Food for at least one nutritious snack shall be available and offered each midafternoon and evening.

(2) All perishable foods shall be stored at such temperatures as will protect against spoilage.

(3) All foods while being stored, prepared or served shall be protected against contamination and be safe for human consumption.

(4) Food received or used in a personal care home shall be from sources considered satisfactory by the county and the Department and shall be clean, wholesome, free from spoilage, adulteration, and misbranding, and safe for human consumption.

(5) A home shall have a properly equipped kitchen to prepare regularly scheduled, well-balanced, meals unless it arranges for meals with a permitted food service establishment.

(6) A home shall possess a valid food service permit where applicable.

(7) A home shall maintain a three day supply of non-perishable foods for emergency needs.

(8) Menus shall be written and posted 24 hours prior to serving of the meal. Any change or substitution shall be noted and considered as a part of the original menu.

(9) A home shall maintain records of all menus as served. Menus shall be kept on file for thirty days for review by the Department.

(10) A minimum of one individual qualified by training or by experience and performance shall be responsible for food preparation. Additional food service staff, including relief persons necessary for regular and timely meals, shall be employed.

(11) A home shall arrange for special diets as prescribed.

Authority O.C.G.A. Secs. 31-2-9, 31-7-2.1. **History.** Original Rule entitled "Nutrition" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.23 Temperature Conditions.

(1) The temperature throughout the home shall be maintained by an adequate central heating system or its equivalent at ranges which are consistent with individual health needs of residents. During winter months, temperature during waking hours should be maintained at 70-75 degrees F and should not drop below 62 degrees F. during sleeping hours.

(2) Mechanical cooling devices shall be made available for use in those areas of the building used by residents when inside temperatures exceed 80 degrees F. No resident shall be in any residence area that exceeds 85 degrees F.

Authority O.C.G.A. Secs. 31-2-9, 31-7-2.1. **History.** Original Rule entitled "Temperature Conditions" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.24 Supplies.

(1) The home shall have a supply of first-aid materials available for use. This supply shall include, at a minimum, band aids, thermometer, tape, gauze, and an antiseptic.

(2) A home shall insure that soap at the sinks and toilet tissue at each commode are provided for use by the residents.

(3) Hand washing facilities provided in both kitchen and bathroom areas shall include hot and cold running water, soap, and clean towels.

Authority O.C.G.A. Secs. 31-2-9, 31-7-2.1. **History.** Original Rule entitled "Supplies" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.25 Resident Files.

(1) An individual resident file shall be maintained by the administrator or on-site manager for each resident in the home. Personal information shall be treated as confidential and shall not be disclosed except to the resident and his or her representative or legal surrogate, if any, an authorized agent of the Department, and others to whom written authorization is given by the resident or his representative or legal surrogate, if any. The resident file shall be made available for inspection and/or copy to the resident or the resident's representative or legal surrogate, if any, upon request.

(2) Each resident file shall include the following information:

- (a) identifying information including name, social security number, veteran status and number, age, sex and previous address;
- (b) name, address and telephone number of next of kin, legal guardian and/or representative or legal surrogate, if any, or representative payee and any court order or written document designating the resident's representative or legal surrogate, if any;
- (c) name, address and telephone number of any person or agency providing additional services to the resident. This information shall include the name of the agency personnel primarily responsible, (i.e., the caseworker, case manager, or therapist);
- (d) date of admission, prior residence of resident, referral source, agency contact and telephone number of referral source;
- (e) date of discharge, facility or residence discharged to and telephone number;
- (f) the name, address and telephone number of a physician, hospital and pharmacy of the resident's choice;
- (g) a record of all monetary transactions conducted on behalf of the resident with itemized receipts of all disbursements and deposits;
- (h) a record of all monies and other valuables entrusted to the home for safekeeping; a receipt for same shall be provided to the resident or representative or legal surrogate, if any, at the time of admission and at anytime thereafter when the resident acquires additional property and wishes to entrust such property to the home for safekeeping;
- (i) health information including all health appraisals, diagnoses, prescribed diets, medications, and physician's instructions;
- (j) an inventory of all personal items brought to the home by the resident to be updated at anytime after admission if a resident or representative or legal surrogate, if any, submits to the home a new inventory of the resident's personal items;
- (k) a signed copy of the Resident's Rights form;
- (l) a signed copy of the admission agreement;
- (m) any power of attorney or document issued by a court or by the Social Security Administration or any other governmental authority which designates another person as responsible for management of the resident's finances;
- (n) a copy of a living will and/or durable power of attorney for health care if executed prior to 2007 or a copy of the Georgia advance directive for health care, if any, the forms for which shall be made available at the time of admission and shall remain available to the resident;
- (o) a copy of the resident's written waiver of the personal needs allowance charge pursuant to the provisions of Rule 111-8-62-.26(1)(p)1.; and

(p) a copy of the physician's statement certifying which staff person or persons have been trained and are qualified to administer insulin to the resident pursuant to the provisions of Rule 111-8-62-.21(1)(b).

(3) The following information may be given voluntarily by the resident, guardian, or representative or legal surrogate, if any, but may not be required:

(a) religious preference, church membership, name and telephone number of minister, priest or rabbi; and

(b) information about insurance policies and prearranged funeral and burial provisions, if any.

(4) Resident files shall be maintained by the home for a period of three years after a resident's discharge.

Authority O.C.G.A. Secs. 31-2-9, 31-7-2.1, 31-8-131 et seq., 31-32-1 et seq. **History.** Original Rule entitled "Resident Files" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.26 Residents' Rights.

(1) As a minimum, the following rights shall be guaranteed and cannot be waived by the resident or the resident's representative or legal surrogate, if any:

(a) Each resident shall receive care, and services which shall be adequate, appropriate, and in compliance with applicable federal and state law and regulations, without discrimination in the quality of service based on age, gender, race, physical or mental disability, religion, sexual orientation, national origin, marital status or the source of payment for the service;

(b) No resident shall be punished or harassed by the facility, its agents or its employees because of the resident's efforts to enforce his or her rights;

(c) Each resident shall have the right to:

1. exercise the constitutional rights guaranteed to citizens of this state and this country including, but not limited to, the right to vote;

2. choose activities and schedules consistent with the resident's interests, and assessments;

3. interact with members of the community both inside and outside the home and to participate fully in the life of the community; and

4. make choices about aspects of his or her life in the home that are significant to the resident;

(d) Each resident shall have the right to enjoy privacy in his or her room; facility personnel and others shall respect this right by knocking on the door before entering the resident's room. Each resident may associate and communicate privately with persons and groups of his or her choice. Residents shall have the right of freedom from eavesdropping and the right to private and uncensored communication with anyone of the resident's choice;

(e) Each resident may associate and communicate privately with persons and groups of his or her choice.

(f) Residents shall have the right of freedom from eavesdropping and the right to private and uncensored communication with anyone of the resident's choice;

(g) If a resident is married and the spouse is also a resident in the facility, they shall be permitted to share a room unless they request otherwise;

(h) Each resident shall be treated with dignity, kindness, consideration and respect and be given privacy in the provision of personal care. Each resident shall be accorded privacy and freedom for the use of bathrooms at all hours;

(i) No religious belief or practice shall be imposed upon any resident. Residents must be free to practice their religious beliefs as they choose. Each resident shall have the right to participate in social, religious, and community activities that do not interfere with the rights of other residents;

(j) Each resident shall have the right to be free from mental, verbal, sexual and physical abuse, neglect and exploitation. Each resident has the right to be free from actual or threatened physical or chemical restraints and the right to be free from isolation, corporal, or unusual punishment including interference with the daily functions of living, such as eating or sleeping;

(k) Each resident shall have the right to use, keep and control his or her own personal property and possessions in the immediate living quarters, except to the extent a

resident's use of his or her property would interfere with the safety or health of other residents. Each resident shall have the right to reasonable safeguards for the protection and security of his personal property and possessions brought into the facility;

(l) Each resident's mail shall be delivered unopened to the resident on the day it is delivered to the facility. Each resident's outgoing correspondence shall remain unopened;

(m) Each resident shall have access to a telephone and the right to have a private telephone, at the resident's own expense. Telephones shall be placed in areas to insure privacy without denying accessibility;

(n) Each facility must permit immediate access to residents by others who are visiting with the consent of the resident. Residents have the right to have visitors at mutually agreed upon hours. Once the hours are agreed upon, no prior notice is necessary. Each resident shall have the complete right to terminate any visit by any person who has access to the facility;

(o) Each resident shall have the right to manage his own financial affairs, including the right to keep and spend his own money unless that resident has been adjudicated incompetent by a court of competent jurisdiction. Each resident shall have the right to be free from coercion to assign or transfer to the home money, valuables, benefits, property or anything of value other than payment for services rendered by the facility;

(p) Each resident shall have the right to a personal needs allowance for the free use of the resident in the amount of five dollars per week to be distributed by the administrator, on-site manager, or a responsible staff person in the home. The following conditions shall be met regarding the personal needs allowance:

1. The personal needs allowance shall be included as a charge for services to each resident's account which a resident or a resident's representative or legal surrogate, if any, may waive by signing a written waiver upon admission or anytime thereafter. No allowance charge may be assessed where a resident or a resident's representative or legal surrogate, if any, has signed a written waiver of the personal needs allowance. Such a waiver shall be kept in a resident's file;

2. Where no waiver has been signed, the personal needs allowance shall be tendered to each resident, in cash, on the same day each week; and

3. The personal needs allowance shall not be intended or needed for purchasing necessary goods such as toilet paper and light bulbs which the home ordinarily supplies, and shall in no way relieve the home of the obligation to insure that such necessary goods are available to the resident;

(q) Each resident shall also have the right to receive or reject medical care, dental care, or other services except as required by law or regulations;

(r) Each resident shall have the right to choose and retain the services of a personal physician and any other health care professional or service. No facility shall interfere with the resident's right to receive from the resident's attending physician complete and current information concerning the resident's diagnosis, treatment and prognosis. Each resident and his or her representative or legal surrogate, if any, shall have the right to be fully informed about care and of any changes in that care and the right of access to all information in medical records;

(s) Each resident shall have the right to fully participate in the planning of his or her care. Case discussion, consultation and examination shall be confidential and conducted

discreetly. A person who is not directly involved in the resident's care may be present when care is being rendered only if he or she has the resident's permission;

(t) Each resident shall have the right to inspect his or her records on request. Each resident shall have the right to make a copy of all records pertaining to the resident. Each resident has the right to confidential treatment of personal information in the resident file;

(u) Each resident who has not been committed to the facility by court order or who does not have a representative or legal surrogate with specific written authority to admit, transfer or discharge, may discharge or transfer himself or herself upon notification to the home in conformance with the home's policies and procedures; and

(v) Each resident shall have the right to access to the State Long-Term Care Ombudsman Program O.C.G.A. § 31-8-50 *et seq.* and the name, address, and telephone number of the ombudsman and county inspector assigned to the home shall be posted in a common area of the home.

(w) Residents shall have the right to form a Resident Council and have meetings in the home outside the presence of owners, management or staff members of the home.

(2) Each resident shall be provided, at the time of admission to the home, with a copy of the Resident's Bill of Rights, as provided in Rule 111-8-62-.26 which shall include provisions for protecting the personal and civil rights of each resident. In the event that a resident is unable to read the Resident's Bill of Rights the manager shall take special steps to assure communication of its contents to the resident.

(3) A personal care home shall comply with the provisions of the "Remedies for Residents of Personal Care Homes Act" as outlined in O.C.G.A. § 31-8-131 *et seq.* Authority O.C.G.A. Secs. 31-2-9, 31-7-2.1, 31-8-50 *et seq.*, 31-8-131 *et seq.* **History.** Original Rule entitled "Residents' Rights" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.27 Procedures for Change in Resident Condition.

(1) In case of an accident or sudden adverse change in a resident's condition or adjustment, a home shall immediately obtain needed care and notify the representative or legal surrogate, if any. A record of such incidents shall be maintained in the resident's files.

(2) Immediate investigation of the cause of an accident or injury involving a resident shall be initiated by the administrator or on-site manager of the home and a report made to the representative or legal surrogate, if any, with a copy of the report maintained in the resident's file and in a central file.

Authority O.C.G.A. Secs. 31-2-9, 31-7-2.1. **History.** Original Rule entitled "Procedures for Change in Resident Condition" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.28 Death of a Resident.

(1) Should a resident die while in the home, the administrator, on-site manager or designated staff shall immediately notify the resident's physician, the next of kin, and the representative or legal surrogate, if any. Statutes applicable to the reporting of sudden or unexpected death and reports which must accompany the deceased shall be observed.

(2) Upon death of the resident, the home must refund to the representative or legal surrogate, if any, any security deposit made to the home by or on behalf of the resident in compliance with O.C.G.A. § 44-7-30 et seq.

Authority O.C.G.A. Secs. 31-2-9, 31-7-2.1, 44-7-30 et seq. **History.** Original Rule entitled "Death of a Resident" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.29 Immediate Transfer of Residents.

(1) The administrator or on-site manager of the home may initiate immediate transfer if the resident develops a physical or mental condition requiring continuous medical care or nursing care or if a resident's continuing behavior or condition directly and substantially threatens the health, safety and welfare of the resident or any other resident.

(2) In the event such immediate transfer is required, the administrator or on-site manager of the home shall advise both the resident and the resident's representative or legal surrogate, if any, and immediate arrangements shall be made based on the written admission agreement to transfer such resident to an appropriate facility. The administrator or on-site manager shall document in the resident's file the reasons for the transfer.

(3) Where immediate transfer is to be made pursuant to paragraphs (1) and (2), the administrator or on-site manager shall make arrangements for transfer in accordance with the admission agreement and shall transfer the resident to an appropriate facility where the resident's needs can be met. Prior to making such transfer, the administrator or on-site manager shall:

(a) inform the resident and representative or legal surrogate, if any, of the reason for the immediate transfer;

(b) inquire as to any preference of the resident and representative or legal surrogate, if any, regarding the facility to which the resident is to be transferred;

(c) inform the representative or legal surrogate, if any, of the resident's choice regarding such transfer;

(d) inform the resident and the representative or legal surrogate, if any, of the place to which the resident is to be discharged;

(e) provide a copy of the resident file to the receiving facility within 24 hours of transfer; and

(f) document in the resident's file the following:

1. the reason for the immediate transfer;

2. the fact that the resident and the representative or legal surrogate, if any, were informed pursuant to this paragraph; and

3. the name, address, and telephone number of the place to which the resident is to be transferred or discharged.

(4) Upon immediate transfer of the resident, the home must refund to the resident or representative or legal surrogate, if any, any security deposit made to the home by or on behalf of the resident in compliance with O.C.G.A. § 44-7-30 *et seq.*

Authority O.C.G.A. Secs. 31-2-9, 31-7-2.1, 44-7-30 *et seq.* **History.** Original Rule entitled "Immediate Transfer of Residents" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.30 Discharge or Transfer of Residents.

(1) Each admission agreement shall include a written procedure for handling discharge and transfer of the resident. The administrator or on-site manager shall contact the representative or legal surrogate, if any, when there is need for discharge or transfer of a resident. Each resident shall have the right to thirty days' written notice to both the resident and the representative or legal surrogate, if any, prior to discharge or transfer of the resident except where immediate transfer is required.

(2) In all cases except those requiring immediate transfer pursuant to Rule 111-8-62-.29, residents whose needs cannot be met by the home or who no longer choose to live in the home shall be discharged or transferred to an appropriate facility based on discharge and transfer procedures entered into at the time of admission. For such discharge or transfer, a thirty-day written notice shall be given to both the resident and representative or legal surrogate, if any, except when transfer is necessitated by a change in physical or mental condition as defined in these rules or as authorized in Rule 111-8-62-.29 regarding immediate transfers. Where there is no representative or legal surrogate or the representative or legal surrogate is unwilling to act, the administrator or on-site manager shall notify the Adult Protective Services section of the Division of Aging Services, Department of Human Services and other appropriate agencies when transfer assistance is needed. The transferring facility shall provide a copy of the resident file to the receiving facility prior to or at the time of transfer.

(3) The Department may reassess the resident at anytime to determine whether a resident needs care beyond that which the facility is permitted to provide.

(4) Upon discharge or transfer of the resident, the home must refund to the resident or representative or legal surrogate, if any, any security deposit made to the home by or on behalf of the resident in compliance with O.C.G.A. § 44-7-30 *et seq.*

Authority O.C.G.A. Secs. 31-2-9, 31-7-2.1, 44-7-30 *et seq.* **History.** Original Rule entitled "Discharge or Transfer of Residents" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.31 Reporting.

(1) Each county shall periodically submit reports, according to a schedule and on forms to be established by the Department, which shall include information on the status of all personal care homes in that county, and the status of waivers which have been granted.

(2) The staff of the personal care home shall call the local police department to report the elopement of any resident from the home within 30 minutes of the staff receiving actual knowledge that such person is missing from the home in accordance with the Mattie's Call Act and the requirements set forth in O.C.G.A. § 35-3-170 *et seq.* The home shall also report the initiation and discontinuation of a Mattie's call to the Healthcare Facility Regulation Division within thirty (30) minutes of communications with local law enforcement authorities having occurred.

(3) The personal care home shall report in a standardized departmental format to the Healthcare Facility Regulation Division of the Department of Community Health no later than 24 hours after the incident has occurred, whenever any of the following incidents involving residents occurs or the personal care home has reasonable cause to believe that an incident involving a resident has occurred:

- (a) Any death of a resident;
- (b) Any serious injury to a resident that requires medical attention;
- (c) Any rape, assault, any battery on a resident, or any abuse, neglect, or exploitation of a Resident in accordance with the Long Term Care Resident Abuse Reporting Act O.C.G.A. § 31-8-80 *et seq.*;
- (d) An external disaster or other emergency situation that affects the continued safe operation of the residence;
- (e) Any circumstances where a member of the governing body, administration, staff associated with or affiliated with the personal care home, or family member of staff is associated with a will, trust, or life insurance policy of a resident or former resident to verify that such gift is knowingly and voluntarily made and not the result of any coercion; and
- (f) When an owner, director or employee acquires a criminal record as defined in these rules.

(4) The incident report required by these rules shall be received by the Department, operating through the Healthcare Facility Regulation Division, in confidence and shall include at least:

- (a) The name of the personal care home and the name of the administrator or site manager;
- (b) The date of the incident and the date the personal care home became aware of the incident; and
- (c) The type of incident suspected, with a brief description of the incident;
- (d) Any immediate corrective or preventative action taken by the personal care home to ensure against the replication of the incident.

(5) Where the Department's Healthcare Facility Regulation Division determines that a rule violation related to the incident has occurred, the Department, through the Healthcare Facility Regulation Division, will initiate a separate complaint investigation of the incident. The complaint investigation report and the report of any rule violation compiled by the Healthcare Facility Regulation Division on behalf of the Department arising either

from the initial report received from the personal care home or an independent source shall be subject to disclosure in accordance with applicable laws.

Authority O.C.G.A. Secs. 31-2-9, 31-7-2.1, 31-7-12, 31-8-80 et seq., 35-3-170 et seq. **History.** Original Rule entitled “Reporting” adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.32 Deemed Status.

The Department may accept the certification or accreditation of a home by an accreditation body or certifying authority recognized and approved by the Department provided that certification or accreditation constitutes compliance with standards that are substantially equivalent to these rules. Nothing herein shall prohibit any departmental inspection.

Authority O.C.G.A. Secs. 31-7-1, 31-7-3. **History.** Original Rule entitled “Deemed Status” adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.33 Variance and Waivers.

The Department may, in its discretion, grant variances and waivers of specific rules upon application or petition filed on forms provided by the Department. The Department may establish conditions which must be met by the home in order to operate under the variance or waiver granted. Variances and waivers may be granted in accordance with the following considerations:

- (a) Variance. A variance may be granted by the Department upon a showing by the applicant or petitioner that the particular rule or regulation that is the subject of the variance request should not be applied as written because strict application of the rule would cause undue hardship. The applicant or petitioner must also show that adequate standards affording protection for the health, safety, and care of the residents exist and will be met in lieu of the exact requirements of the rule or regulations in question;
- (b) Waiver. The Department may dispense entirely with the enforcement of a rule or regulation by granting a waiver upon a showing by the applicant or petitioner that the purpose of the rule or regulation is met through equivalent standards affording equivalent protection for the health, safety, care, and rights of the residents; and
- (c) Experimental Variance or Waiver. The Department may grant variances and waivers to allow experimentation and demonstration of new and innovative approaches to delivery of services upon a showing by the applicant or petitioner that the intended protections afforded by the rule or regulation which is the subject of the request are met and that the innovative approach has the potential to improve service delivery without compromising health, safety, residents' rights, or other relevant standards.

Authority O.C.G.A. Secs. 31-2-9, 31-7-2.1, 31-7-12. **History.** Original Rule entitled "Variance and Waivers" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-62-.34 Enforcement and Penalties.

(1) Enforcement of these rules and regulations shall be in accordance with O.C.G.A. § 31-2-11 and the Rules for Enforcement for Licensing Requirements, Chapter 290-1-6.

(2) No personal care home shall be operated or residents admitted without a permit or provisional permit. Failure or refusal to file an application for a permit shall constitute a violation of Chapter 7 of Title 31 of the Official Code of Georgia Annotated. Any person who fails or refuses to file an application for a permit shall be subject to the penalties provided by law including, but not limited to, an order to cease and desist operating a Personal Care Home.

(3) The Department may refuse to grant a permit or provisional permit for the operation of any personal care home which does not fulfill the minimum requirements of these rules and may revoke a permit or provisional permit which has been issued and may invoke other sanctions if a home violates any of these rules and regulations. Before any order is entered refusing a permit applied for or revoking a permit, the applicant or permit holder shall be afforded an opportunity for a hearing as provided in Article 1 of Chapter 5 of Title 31 of the Official Code of Georgia Annotated.

(4) No permit shall be issued to any governing body which has been denied a permit by the Department during the previous twelve months. No permit shall be issued to any governing body which has had a permit revoked by the Department during the previous twelve months.

(5) Subject to notice and the right to hearing, the Department is authorized to take other enforcement action against the holder of a permit or a provisional permit including:

(a) issuing a public or private reprimand;

(b) imposition of a fine; and

(c) limitation, suspension, or restriction of a permit or provisional permit.

(6) The Department is empowered to institute appropriate proceedings in a court of competent jurisdiction for the purpose of enjoining violation of any applicable provision of Title 31 of the Official Code of Georgia Annotated, or of these rules and regulations.

Authority O.C.G.A. Secs. 31-2-11, 31-7-2.1, 31-7-4. **History.** Original Rule entitled "Enforcement and Penalties" adopted. F. Nov. 19, 2009; eff. Dec. 9, 2009.

111-8-63-.01 Authority. The legal authority for this Chapter is found in O.C.G.A. §§ 31-2-7 and Chapter 7 of Title 31.

Authority: O.C.G.A. §§ 31-2-4, 31-2-7, 31-2-8, 31-2-9 and 31-7-1, *et seq.* **History:** Original Rule entitled “Authority” adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.02 Purpose. The purpose of these rules and regulations is to establish the minimum standards for the operation of personal care homes to be licensed as assisted living communities. Such communities provide assisted living care to adults who require varying degrees of assistance with the activities of daily living but who do not require continuous medical or nursing care.

Authority: O.C.G.A. §§ 31-2-7 and 31-7-1 *et seq.* **History:** Original Rule entitled “Purpose” adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.03 Definitions. In these rules, unless the context otherwise requires, the words, phrases and symbols set forth herein shall mean the following:

(a) "Abuse " means any intentional or grossly negligent act or series of acts or intentional or grossly negligent omission to act which causes injury to a resident, including but not limited to, assault or battery, failure to provide treatment or care, or sexual harassment of the resident.

(b) "Activities of daily living" means bathing, shaving, brushing teeth, combing hair, toileting, dressing, eating, walking, transferring from place to place, laundering, cleaning room, managing money, writing letters, shopping, using public transportation, making telephone calls, grooming, obtaining appointments, engaging in leisure and recreational activities, or other similar activities.

(c) "Administrator" means the manager designated by the Governing Body as responsible for the day-to-day management, administration and supervision of the assisted living community, who may also serve as the on-site manager and responsible staff person except during periods of his or her own absence.

(d) "Applicant" means an individual or entity that submits an application for licensure pursuant to these rules as described below:

1. When the assisted living community is owned by a sole proprietorship, the individual proprietor must be the applicant for the license, complete the statement of responsibility and serve as the licensee;

2. When the assisted living community is owned by a partnership, the general partners must be the applicant for the license, complete the statement of responsibility and serve as the licensee;

3. When the assisted living community is owned by an association, limited liability company (LLC), the governing body of the association or LLC must authorize the application for the license, complete the statement of responsibility and serve as the licensee; and

4. When the assisted living community is owned by a corporation, the governing body of the corporation must authorize the application for the license, complete the statement of responsibility and serve as the licensee.

(e) "Assistive device" means a device that may restrain movement which has been determined to be required by a licensed physician, nurse practitioner or physician's assistant working under a protocol or job description respectively and is applied for protection from injury or to support or correct the body alignment of the person, , for the treatment of a person's physical condition, and may only be used as a treatment intervention where a specific written plan of care has been developed and the resident consents to such use.

(f) "Assisted living care" means the specialized care and services provided by an assisted living community which includes the provision of personal services, the administration of medications by a certified medication aide and the provision of assisted self preservation.

(g) "Assisted living community" or "community" means a personal care home serving 25 residents or more that is licensed by the department to provide assisted living care.

(h) "Assisted self-preservation" means the capacity of a resident to be evacuated from an assisted living community to a designated point of safety and within an established period of time as determined by the Office of Fire Safety Commissioner. Assisted self-preservation is a function of all of the following: (A) the condition of the individual, (B) the assistance that is available to be provided to the individual by the staff of the assisted living community; and (C) the construction of the building in which the assisted living community is housed, including whether such building meets the state fire safety requirements applicable to an existing health care occupancy.

(i) "Chemical Restraint" means a psychopharmacologic drug that is used for discipline or convenience and not required to treat medical symptoms.

(j) "Criminal records check" means a search as required by law of the records maintained by law enforcement authorities to determine whether the applicant for licensure or employment has a criminal record as defined in O.C.G.A §§ 31-2-9 and 31-7-250 as applicable.

(k) "Criminal record" means any of the following:

1. conviction of a crime; or

2. arrest, charge, and sentencing for a crime where:

(i) a plea of nolo contendere was entered to the charge; or

(ii) first offender treatment without adjudication of guilt pursuant to the charge was granted; or

(iii) adjudication or sentence was otherwise withheld or not entered on the charge; or

(iv) arrest and being charged for a crime if the charge is pending, unless the time for prosecuting such crime has expired pursuant to O.C.G.A. § 17-3-1 *et seq.*

(l) "Department" means the Department of Community Health of the State of Georgia operating through the Division of Healthcare Facility Regulation.

(m) "Director" means the chief administrator, executive officer or manager.

(n) "Disabled individual" means an individual that has a physical or mental impairment that substantially limits one or more major life activities and who meets the criteria for a disability under state or federal law.

(o) "Employee" means any person, other than a director, utilized by an assisted living community to provide personal services to any resident on behalf of the assisted living community or to perform at any facilities of the assisted living community any duties which involve personal contact between that person and any paying resident of the assisted living community.

(p) "Exploitation" means an unjust or improper use of another person or the person's property through undue influence, coercion, harassment, duress, deception, false representation, false pretense, or other similar means for one's own personal advantage.

(q) "Fingerprint records check determination" means a satisfactory or unsatisfactory determination by the Department based upon a records check comparison of Georgia Crime Information Center (GCIC) information with fingerprints and other information in a records check application.

(r) "Governing Body" means the owner, , the board of trustees or directors, the partnership, the corporation, the association, the sole proprietorship or the person or group of persons who maintains and controls the assisted living community and who is legally responsible for the operation of the community.

(s) "Health maintenance activities" means those limited activities that, but for a disability, a person could reasonably be expected to do for himself or herself. Such activities are typically taught by a registered professional nurse, but may be taught by an attending physician, advanced practice registered nurse, physician assistant, or directly to a patient and are part of ongoing care. Health maintenance activities are those activities that do not include complex care such as administration of intravenous medications, central line maintenance, and complex wound care; do not require complex observations or critical decisions; can be safely performed and have reasonably precise, unchanging directions; and have outcomes or results that are reasonably predictable. Health maintenance activities conducted pursuant to this paragraph shall not be considered the practice of nursing.

(t) "Health services" means the specialized assistance that may be provided by or at the direction of either licensed healthcare professionals, such as doctors, nurses, physical therapists or through licensed healthcare programs, such as home health agencies, hospices and private home care providers to address health needs that the assisted living community is not staffed to provide or is not authorized by law or regulations to provide.

(u) "Injury" as used in the definition of "abuse" means a wrong or harm caused by an individual to a resident which is manifested by a physical or behavioral reaction or change in the appearance or actions of the resident, such as, but not limited to, reddened or bruised skin not related to routine care, crying, startling or cowering reaction by the resident and malnutrition or pressure ulcers for which the facility has not provided proper care.

(v) "Legal Surrogate" means a duly appointed person who is authorized to act, within the scope of the authority granted under the legal surrogate's appointment, on behalf of a resident who is adjudicated incapacitated.

(w) "Licensed Residential Care Profile" means the form made available by the Department which the assisted living community must use to inform the public about the services it provides.

(x) "Local law enforcement agency" means a local law enforcement agency with authorization to conduct criminal history background checks through the Georgia Crime Information Center (GCIC).

(y) "Medical services" means services which may be provided by a person licensed pursuant to Article II of Chapter 34 of Title 43 of the Official Code of Georgia Annotated.

(z) "Memory care services" means the additional watchful oversight systems and devices that are required for residents who have cognitive deficits which may impact memory, language,

thinking, reasoning, or impulse control, and which place the residents at risk of eloping, i.e. engaging in unsafe wandering activities outside the assisted living community.

(aa) "Memory care unit" means the assisted living community or specialized unit, thereof, that either holds itself out as providing additional or specialized care to persons with diagnoses of probable Alzheimer's Disease or other dementia who may be at risk of engaging in unsafe wandering activities outside the unit or assisted living community (eloping) or charges rates in excess of those charged other residents because of cognitive deficits which may place the residents at risk of eloping.

(bb) "Non-Family Adult" means a resident 18 years of age or older who is not related by blood within the third degree of consanguinity or by marriage to the person responsible for the management of the assisted living community or to a member of the governing body.

(cc) "Nursing services" means those services which may be rendered by a person licensed pursuant to Articles I and 2 of Chapter 26 of Title 43 of the Official Code of Georgia Annotated.

(dd) "On-site manager" means the administrator or person designated by the administrator as responsible for carrying out the day-to-day management, supervision, and operation of the assisted living community, who may also serve as responsible staff person except during periods of his or her own absence.

(ee) "Owner" means any individual or any person affiliated with a corporation, partnership, or association with 10 percent or greater ownership interest in the business or agency licensed as an assisted living community and who:

1. purports to or exercises authority of an owner in the business or agency; or
2. applies to operate or operates the business or agency; or
3. maintains an office on the premises of the assisted living community; or
4. resides at the assisted living community; or
5. has direct access to persons receiving care at the assisted living community; or
6. provides direct personal supervision of assisted living community personnel by being immediately available to provide assistance and direction during the time such assisted living community services are being provided; or
7. enters into a contract to acquire ownership of such a business or agency.

(ff) "Permit" or "license" means the authorization granted by the Department to the governing body to operate an assisted living community.

(gg) "Personal care home" means any dwelling, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food service, and one or more personal services for two or more adults who are not related to the owner or administrator by blood or marriage.

(hh) "Personal Services" includes, but is not limited to, individual assistance with or supervision of self-administered medication, assistance, essential activities of daily living such as eating, bathing, grooming, dressing, toileting, ambulation and transfer.

(ii) "Proxy caregiver" means an unlicensed person who has been selected by a disabled individual or a person legally authorized to act on behalf of such individual to serve as such individual's proxy caregiver, provided that such person shall receive training and shall demonstrate the necessary knowledge and skills to perform documented health maintenance activities, including specialized procedures for such individual.

(jj) "Physical Restraints" are any manual or physical device, material, or equipment attached or adjacent to the resident's body that the individual cannot remove easily which restricts freedom or normal access to one's body. Physical restraints include, but are not limited to, leg restraints, arm restraints, hand mitts, soft ties or vests, and wheelchair safety bars. Also included as restraints are assisted living community practices which function as a restraint, such as tucking in a sheet so tightly that a bedbound resident cannot move, bedrails, or chairs that prevent rising, or placing a wheelchair-bound resident so close to a wall that the wall prevents the resident from rising. Wrist bands or devices on clothing that trigger electronic alarms to warn staff that a resident is leaving a room do not, in and of themselves, restrict freedom of movement and should not be considered as restraints.

(kk) "Plan of Correction" means the written plan prepared in response to cited rule violations that identifies by date certain the specific actions that will be taken by the assisted living community to come into compliance with these rules.

(ll) "Representative" means a person who voluntarily, with the resident's written authorization, acts upon resident's direction with regard to matters concerning the health and welfare of the resident, including being able to access personal and medical records contained in the resident's file and receive information and notices pertaining to the resident's overall care and condition. This written authorization may take the form of an advance directive.

(mm) "Resident" means any non-family adult who receives or requires assisted living care and resides in the assisted living community.

(nn) "Responsible Staff Person" means the employee designated by the administrator or on-site manager as responsible for supervising the operation of the assisted living community during periods of temporary absence of the administrator or on-site manager.

(oo) "Satisfactory records check determination" means a written determination that a person for whom a records check was performed was found to have no criminal record as defined in O.C.G.A. § 31-7-250 or O.C.G.A. § 31-2-9 as applicable.

(pp) "Self-administration of medications" or "self-administered medications" means those prescription or over-the-counter drugs that the resident personally chooses to ingest or apply where the resident has been assessed and determined to have the cognitive skills necessary to articulate the need for the medication and generally knows the times, and physical characteristics of medications to be taken.

(qq) "Self-preservation" means the ability to respond to an emergency condition, whether caused by fire or otherwise, and escape the emergency without physical, hands-on

assistance from staff. The resident may move from place to place by walking, either unaided or aided by prosthesis, brace, cane, crutches, walker or hand rails, or by propelling a wheelchair.

(rr) “Staff” means any person who performs duties in the assisted living community on behalf of the assisted living community.

(ss) "Unsatisfactory criminal history background check determination" means a written determination that a person for whom a records check was performed has a criminal record which indicates an arrest, charge or conviction of one of the covered crimes outlined in O.C.G.A. § 31-7-250 *et seq.*, or as outlined in O.C.G.A. § 31-2-14.

Authority: O.C.G.A. §§ 31-2-7, 31-2-8, 31-2-9, 31-7-1 *et seq.* and 43-26-12. **History:** Original Rule entitled “Definitions” adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.04 Exemptions. These regulations do not apply to the following facilities:

(a) boarding homes or rooming houses which provide no services other than lodging and meals;

(b) facilities offering temporary emergency shelter, such as those for the homeless and victims of family violence;

(c) other facilities, homes or residences licensed by the department which have not been classified as assisted living communities, e.g. community living arrangements, personal care homes, hospices, traumatic brain injury facilities;

(d) facilities providing residential services for federal, state or local correctional institutions under the jurisdiction of the criminal justice system;

(e) charitable organizations providing shelter and other services without charging any fee to the resident or billing any fee on behalf of the residents;

(f) group residences organized by or for persons who choose to live independently or who manage their own care and share the cost of services including but not limited to attendant care, transportation, rent, utilities and food preparation;

(g) facilities licensed by the Department of Behavioral Health, Developmental Disabilities and Addictive Diseases; or

(h) host homes as defined in O.C.G.A. §37-1-20(18).

Authority: O.C.G.A. §§ 31-2-7, 31-2-8, 31-7-1 *et seq.*, 37-1-20 and 37-1-29. **History:** Original Rule entitled “Exemptions” adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.05 Application for Permit.

- (1) The governing body of each assisted living community must submit to the Department an application for a permit in order to operate.
- (2) The application for a permit must be made on forms made available by the Department or in a format acceptable to the Department.
- (3) No application for licensure will be acted upon by the Department unless it has been determined to be complete and include all required attachments and fees due the Department as specified in the Rules and Regulations for General Licensing and Enforcement Requirements, Chapter 111-8-25.
- (4) Each application for a permit must be accompanied by an accurate floor plan showing windows, doors, common areas, and resident room measurements and digital copies in .jpg format of pictures of the assisted living community's exterior, common areas and typical resident room.
- (5) The name of the administrator or on-site manager, who will be working in the assisted living community, if known, must be included with the application for a permit. If such information is not known at the time of application, it must be provided to the Department before a permit will be issued.
- (6) The ownership of the assisted living community must be fully disclosed in the application for a permit. In the case of corporations, partnerships, and other entities recognized by statute, the corporate officers and all other individuals or family groups owning ten percent or more of the corporate stock or ownership must be disclosed in the application, as well as the registered agent for service of process.
- (7) Each application must include documentation of ownership or lease agreement for the property on which the assisted living community will be operated.
- (8) The filing of an application for licensure constitutes a representation that the applicant is or will be in complete control of the community as of a specified date.
- (9) Local zoning and other local requirements regarding the proper location and establishment of the assisted living community must be addressed by the applicant with the responsible local officials.

Authority: O.C.G.A. §§ 31-2-7, 31-2-8, 31-2-9 and 31-7-1 *et seq.* Authority: O.C.G.A. §§ 31-2-7, 31-2-8, 31-7-1 *et seq.*, 37-1-20 and 37-1-29. **History:** Original Rule entitled "Application for Permit" adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.06 Permits.

- (1) The governing body of each assisted living community must obtain a valid permit from the Department to provide assisted living care prior to admitting any residents.
- (2) The permit must be displayed on the premises in a conspicuous place that is visible to residents and visitors.
- (3) Permits are not transferable from one assisted living community or location to another.
- (4) A permit must be returned to the Department and is no longer valid when any of the following events occurs:
 - (a) The assisted living community is moved to another location which has not been licensed.
 - (b) The ownership of the community changes.
 - (c) The permit is suspended or revoked.
- (5) A separate permit is required for each assisted living community located on different premises.
- (6) An assisted living community must not serve more residents than its approved licensed capacity, which is listed on the face of the permit issued by the Department.
- (7) An assisted living community must provide assisted living care as authorized by law and these rules.
- (8) An assisted living community must disclose its licensure classification as an assisted living community in its marketing materials.
- (9) An assisted living community must not operate or allow another business to operate on the premises of the assisted living community where the business intrudes on the residents' quiet enjoyment and exclusive use of the premises, in any way.

Authority: O.C.G.A. §§ 31-2-7, 31-2-8 , 31-2-9 and 31-7-1 *et seq.* **History:** Original Rule entitled "Permits" adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.07 Owner Governance.

(1) The assisted living community must have a functioning governing body which is responsible for providing the oversight necessary to ensure that the community operates in compliance with these rules, the Rules for General Licensing and Enforcement, Chapter 111-8-25, the Rules for Proxy Caregivers, Chapter 111-8-100, as applicable and other applicable state laws and regulations.

(2) The governing body is responsible for implementing policies, procedures and practices in the community that support the core values of dignity, respect, choice, independence and privacy of the residents in a safe environment and in accordance with these rules. At a minimum, the policies and procedures that are developed must provide direction for the staff and residents on the following:

(a) the services available in the assisted living community, including, personal services, assisted living care, memory care services and any other specialized services such as, memory care units and designated proxy caregivers;

(b) the staffing plan that the community utilizes to ensure that staffing ratios increase proportionally as the number of residents who require assisted self-preservation increases;

(c) admissions, discharges and immediate transfers which ensure that the community does not admit or retain residents who need more care than the assisted living community is authorized or capable of providing;

(d) refunds when a resident is transferred or discharged;

(e) training and ongoing evaluation of staff, including specialized training if designated proxy caregivers are provided or memory care is offered;

(f) house rules and their enforcement;

(g) protecting the rights of the residents as set forth in these rules;

(h) medication management, procurement, the use of certified medication aides and professional oversight provided for such services;

(i) health and hygiene issues for residents and staff relating to infection control, work policies and return to work policies, food borne illnesses and reportable diseases;

(j) the investigation and reporting of abuse, neglect, exploitation of residents, residents' wandering away from the community, accidents, injuries and changes in residents' conditions to required parties;

(k) discipline procedures for handling acts committed by staff which are inconsistent with the policies of the assisted living community;

- (l) emergency preparedness, drills and evacuation requirements;
 - (m) quality assurance review mechanisms, including resident and family feedback to determine opportunities for improving care;
 - (n) the use of volunteers and their orientation regarding resident's rights and basic safety precautions;
 - (o) the specific use of proxy caregivers allowed within the community and the oversight of proxy caregivers the community requires or provides in accordance with Georgia law, these rules and the rules for proxy caregivers, Chapter 111-8-100; and
 - (p) the safety and security precautions that will be employed by the assisted living community to protect residents from harm by other residents, designated proxy caregivers , and other individuals, not employed by the community who routinely come into the community.
- (3) The governing body must designate an administrator or on-site manager as responsible for the overall management of the assisted living community and for carrying out the rules and policies adopted by the governing body.
- (4) The governing body must ensure that the Department has current emergency contact information consisting of name, e-mail contact for notifications to the licensed community, physical addresses, and phone numbers for the governing body and the administrator or on-site manager of the assisted living community.
- (5) The governing body must take appropriate measures within its control, to protect the residents from criminal activity occurring in the assisted living community.
- (6) The governing body must not allow persons who are not residents of the assisted living community to live on the premises if they are listed on the National Sex Offender Registry.
- (7) No member of the governing body, administration, or staff of the assisted living community or an affiliated assisted living community or family members of the governing body or any staff may serve as the legal surrogate or representative of a resident.
- (8) Where the governing body, a member of the governing body's family or a staff member of the assisted living community or an affiliated assisted living community serves as the representative payee of a resident, the individual or entity must be covered by a surety bond.

Authority: O.C.G.A. §§ 31-2-7, 31-2-8, 31-7-1 *et seq.* **History:** Original Rule entitled "Owner Governance" adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.08 Community Leadership.

(1) Each community must have a full-time administrator to provide day-to-day leadership to the community. The administrator must meet the following qualifications:

(a) The individual must be 21 years of age or older, and

(b) The individual must satisfy at least one of the following educational criteria:

1. a bachelor's degree from an accredited college or university plus 1 year's experience in a health or aging related setting;

2. an associate's degree from an accredited college or university, plus 2 years' experience working in a personal care, health or aging related setting, including 1 year in a leadership or supervisory position;

3. a license as a nursing home administrator;

4. certification by a nationally recognized educational provider or license issued by another state as a nursing home administrator or an assisted living facility administrator where the curriculum addresses in detail the knowledge and skills necessary to manage a nursing home or an assisted living community; or

5. a GED or HS diploma and a total 4 years experience working in a licensed personal care home or other health-related setting which has included at least 2 years supervisory experience.

(2) The administrator is responsible for ensuring that the policies and procedures are effective and enforced to ensure compliance with these rules and community policies and procedures.

(3) Each assisted living community must have a separate administrator or on-site manager who works under the supervision of the administrator.

(4) The administrator or on-site manager must designate qualified staff as responsible staff to act on his or her behalf and to carry out his or her duties in the absence of the administrator or on-site manager.

(5) Residents must not be allowed to function or be counted as staff.

(6) Staff must be assigned duties consistent with their positions, training, experiences, and the requirements of Rule 111-8-63-.09.

(7) The administrator is responsible for ensuring that the assisted living community has an effective quality assurance program which includes at least the following:

- (a) investigating resident incidents which result in injuries or death in order to identify and implement opportunities for improvement in care;
- (b) implementing changes made to support improved care, such as those necessary to minimize illness outbreaks and eliminate identified rule violations;
- (c) monitoring staff performance to ensure that care and services are being delivered safely and in accordance with these rules and community policies; and
- (d) obtaining and using feedback from the residents and representatives, at least annually, on the quality of services provided by the community and opportunities for improvement of services.

Authority: O.C.G.A. §§ 31-2-7, 31-2-8, 31-7-1 *et seq.* **History:** Original Rule entitled “Community Leadership” adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.09 Workforce Qualifications, Training and Staffing

(1) The on-site manager and responsible staff persons must be at least 21 years of age and responsible for supervising the provision of care by all other staff. No staff person under the age of 18 is permitted to work in the assisted living community unless there is direct line-of-sight supervision being provided by the administrator, on-site manager or a responsible staff person or the staff member is at least 17 years of age and has successfully completed a vocational technical training track as a nursing assistant through a Georgia high school.

(2) Initial Training for All Staff. The administrator or on-site manager must ensure that any person working in the assisted living community as staff, receives training within the first 60 days of employment on the following:

(a) residents' rights and identification of conduct constituting abuse, neglect or exploitation of a resident and reporting requirements to include the employee's receipt of a copy of the Long-Term Care Facility Resident Abuse Reporting Act as outlined in O.C.G.A. § 31-8-81 *et seq.*;

(b) general infection control principles including importance of hand hygiene in all settings and attendance policies when ill;

(c) training necessary to carry out assigned job duties and

(d) emergency preparedness.

(3) Initial Training for Staff Providing Hands-On Personal Services. In addition to the initial training required of all staff in paragraph (2) above, the administrator must ensure that staff hired to provide hands-on personal services to residents receive training within the first 60 days of employment which includes the following:

(a) current certification in emergency first aid except where the staff person is a currently licensed health care professional;

(b) current certification in cardiopulmonary resuscitation where the training course required return demonstration of competency;

(c) medical and social needs and characteristics of the resident population, including special needs of residents with dementia;

(d) residents' rights and the provision of care to residents that is individualized and helpful; and

(e) training specific to assigned job duties, such as, but not limited to, permissible assistance with medications, contraindications for medications that must be brought to the attention of appropriate individuals, assisting residents in transferring, ambulation, proper food preparation, proper performance of health maintenance activities if serving as a designated proxy caregiver and responding appropriately to dementia-related behaviors.

(4) Trained Staff Present. At least one staff person who has completed the minimum training requirements of Rule 111-8-63-.09(2)(a) through (e) and (3)(a) through (e) above must be present in the assisted living community at all times any residents are present to provide necessary oversight and assistance to staff providing hands-on personal services who have not

completed the training, to ensure that care and services are delivered safely and in accordance with these rules.

(5) Training Hours Required During First Year of Employment. All staff offering hands-on personal services to the residents, including the administrator or on-site manager, must satisfactorily complete a total of at least twenty-four (24) hours of continuing education within the first year of employment as a direct care worker. Staff providing hands-on personal services in a specialized memory care unit, must have 8 hours training related specifically to dementia care, included in their 24 hours of first-year employment training. The courses offered must be relevant to assigned job duties and include such topics as cardiopulmonary resuscitation and first aid certifications, utilizing standard precautions in working with aging residents, working with residents with Alzheimer's or other cognitive impairments, working with persons who have developmental disabilities or persons who have mental illness, providing social and recreational activities, understanding legal issues, performing necessary physical maintenance, fire safety, housekeeping activities, recognizing and reporting abuse, neglect and exploitation, preparing and serving food safely, preserving the dignity and rights of residents receiving care to make meaningful choices, providing and documenting medication assistance, or other topics as determined necessary by the Department to support compliance.

(6) Ongoing Staff Training. Beginning with the second year of employment, staff providing hands-on personal services must have a minimum of sixteen (16) hours of job-related continuing education as referenced in paragraph 111-8-63-.09(5) above annually. For staff providing hands-on personal services in the memory care unit, at least two hours of the ongoing continuing education required each year must be devoted specifically to training relevant to caring for residents with dementia.

(7) Training Records. The community must maintain documentation reflecting course content, instructor qualifications, agenda and attendance rosters for all trainings provided.

(8) Proxy Caregiver Training. An assisted living community employing proxy caregivers must provide training to the proxy caregivers in accordance with the Rules and Regulations for Use of Proxy Caregivers, Chapter 111-8-100 subject to the limitation that only certified medication aides may administer medications on behalf of the community.

(9) Staff Health Examinations and Screenings. The administrator, on-site manager, and each employee must have received a tuberculosis screening and a physical examination by a licensed physician, nurse practitioner or physician's assistant within twelve months prior to providing care to the residents. The physical examination must be sufficiently comprehensive to assure that the employee is physically qualified to work and free of diseases communicable within the scope of employment. Follow-up examinations must be conducted by a licensed physician, nurse practitioner or physician's assistant for each administrator or staff person to determine readiness to return to work following a significant illness or injury. Health information, screenings, assessments and medical releases regarding each staff member must be retained in a readily retrievable format by the assisted living community and made available for review and/or copying by Department representatives upon request.

(10) Criminal History Background Checks for Owners Required. The owner of the business or agency applying for the license must have a fingerprint records check determination as specified in O.C.G.A. § 31-2-9 or specific rules passed pursuant to the statute. In the event

that an apparent owner claims not to be an “owner” as defined in Rule 111-8-63-.03(ee) and does not wish to obtain a fingerprint records check determination, the person must submit an affidavit which sets forth the facts that establishes that the person does not meet the definition of an “owner.”

(a) An owner with a criminal record, as defined in O.C.G.A. § 31-2-9 or specific rules passed pursuant to the statute, must not operate or hold a license to operate an assisted living community.

(b) If the owner wants to contest the determination regarding the criminal record and the associated denial or revocation of the community’s permit; the owner must appeal in writing the criminal record determination, permit denial or revocation within 10 days of receipt of written notice by the Department.

(c) An owner holding an assisted living community license who acquires a criminal record as specified in O.C.G.A. § 31-2-9 or specific rules passed pursuant to the statute, must disclose the criminal record to the Department and submit to another fingerprint records check.

(d) The owner holding a permit to operate an assisted living community must submit to a follow-up fingerprint records check periodically when the Department provides the owner with written notice that it has reason to believe either that the owner has acquired a criminal record, as defined in O.C.G.A. § 31-2-9 or specific rules passed pursuant to the statute, subsequent to the Department’s issuance of the permit or that the Department’s previous determination of no criminal record was erroneous.

(11) Criminal History Background Checks for Director, Administrator and Onsite Manager Required. Prior to serving as a director, administrator or onsite manager of an assisted living community, the community must obtain a satisfactory fingerprint records check determination for the person to be hired in compliance with the provisions of O.C.G.A. § 31-7-250 *et seq.* or specific rules passed pursuant to the statute .

(a) A person with an unsatisfactory criminal history background check determination must not serve as a director, administrator or on-site manager of a licensed assisted living community if it is determined that such person has a criminal record as defined in O.C.G.A. § 31-7-250 or specific rules passed pursuant to the statute,;

(b) A director, administrator or onsite manager of the assisted living community who acquires a criminal record as defined in O.C.G.A. § 31-7-250 or specific rules passed pursuant to the statute, must disclose the criminal record to the Department and submit to another fingerprint records check.

(c) The director, administrator or onsite manager of the assisted living community must immediately submit to an additional fingerprint records check when the Department provides the director, administrator or onsite manager with written notice that it has reason to believe either that he or she has acquired a criminal record as defined in O.C.G.A. § 31-7-250 or specific rules passed pursuant to the statute, subsequent to the Department’s issuance of the permit or that the fingerprint record check is required to confirm identification for record search purposes or required in connection with an abuse, neglect or exploitation investigation.

(12) Criminal History Background Checks for Employees Required. Prior to serving as an employee, other than a director of an assisted living community, the community must obtain a satisfactory records check determination for the person to be hired in compliance with the provisions of O.C.G.A. § 31-7-250 *et seq.* or specific rules passed pursuant to the statute. .

(13) An employee must immediately submit to a fingerprint records check when the Department provides the employee with written notice that it has reason to believe that he or she has a criminal record as defined in O.C.G.A. § 31-7-250 or specific rules passed pursuant to the statute, or that the fingerprint record check is required to confirm identification for record search purposes or required in connection with an abuse investigation.

(14) The administrator or on-site manager must obtain an employment history for each employee and maintain documentation in the employee's file. If the potential employee has no prior employment history, then the assisted living community must retain documentation of a satisfactory personal reference check.

(15) Personnel files must be maintained in the assisted living community for each employee and for three years following the employee's departure or discharge. These files must be available for inspection by departmental staff but must be maintained to protect the confidentiality of the information contained in them from improper disclosure. The files must include the following:

(a) evidence of a satisfactory fingerprint record check determination or a satisfactory criminal history background check determination;

(b) report of physical examination completed by a licensed physician, nurse practitioner or physician's assistant, and a TB screening completed within the 12 months preceding the date of hire;

(c) evidence of trainings, skills competency determinations and recertifications as required by these rules and, if applicable, the Rules for Proxy Caregivers, Chapter 111-8-100;

(d) employment history, including previous places of work, employers and telephone contacts with previous employers;

(e) supporting documentation reflecting that the employee has the basic qualifications as represented, e.g. documentation of good standing by nursing board, no findings of abuse, neglect or exploitation entered against the individual in the nurse aide registry, satisfactory report of motor vehicle driving record where the employee may be transporting residents; and

(f) written evidence of satisfactory initial and annual work performance reviews for unlicensed staff providing hands-on personal care. Where the unlicensed staff perform specialized tasks, such as health maintenance activities, assistance with medications or medication administration, such performance reviews must include the satisfactory completion of skills competency checklists as specified in applicable rules. Such reviews must be conducted by staff or contractors qualified by education, training and experience to assess that the assigned duties are being performed in accordance with these rules and accepted health and safety standards.

(16) Where the assisted living community permits a resident to hire his or her own companion-sitter, proxy caregiver to perform health maintenance activities or aide of any sort, the assisted living community must require assurance that the companion-sitter, proxy caregiver or aide so hired is familiar with emergency evacuation routes and has documentation reflecting compliance with the provisions of the Rules for Proxy Caregivers, Chapter 111-8-100, as applicable,

(17) The administrator, on-site manager, and staff persons must not be under the influence of alcohol or other controlled substances while engaged in any work-related activity on behalf of the assisted living community.

(18) The community must maintain a minimum on-site staff to resident ratio of one awake direct care staff person per 15 residents during waking hours and one awake direct care staff person per 25 residents during non-waking hours where the residents have minimal care needs. However, the assisted living community must staff above these minimum on-site staff ratios to meet the specific residents' ongoing health, safety and care needs.

(a) Staff, such as cooks and maintenance staff, who do not receive on-going direct care training and whose job duties do not routinely involve the oversight or delivery of direct personal care to the residents, must not be counted towards these minimum staffing ratios. Personnel who work for another entity, such as a private home care provider, hospice, etc. or private sitters cannot be counted in the staff ratios for the assisted living community.

(b) At least one administrator, on-site manager, or a responsible staff person must be on the premises 24 hours per day providing supervision whenever residents are present.

(c) Residents must be supervised consistent with their needs.

(19) Sufficient staff time must be provided by the assisted living community such that each resident:

(a) receives services, treatments, medications and diet as prescribed;

(b) receives proper care to prevent decubitus ulcers and contractures;

(c) is kept comfortable and clean;

(d) is treated with dignity, kindness, and consideration and respect;

(e) is protected from avoidable injury and infection;

(f) is given prompt, unhurried assistance if she or he requires help with eating;

(g) is given assistance, if needed, with daily hygiene, including baths and oral care; and

(h) is given assistance in transferring and assisted self-preservation when needed.

(20) All persons, including the administrator or on-site manager, who offer direct care to the residents on behalf of the assisted living community, must maintain an awareness of each resident's normal appearance and must intervene, as appropriate, if a resident's state of health appears to be in jeopardy.

(21) All assisted living communities must develop and maintain accurate staffing plans that take into account the specific needs of the residents and monthly work schedules for all employees, including relief workers, showing planned and actual coverage for each day and night. The assisted living community must retain the completed staff schedules for a minimum of one year.

(22) Staff must wear employee identification badges which are readily visible with abbreviations for professional/special credentials displayed on the badges, if any.

Authority: O.C.G.A. §§ 31-2-7, 31-2-8, 31-2-9, 31-7-1 *et seq.* and 43-26-12. **History:** Original Rule entitled "Workforce Qualifications, Training and Staffing" adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.10 Community Accountability.

(1) The records required by these rules and other records maintained in the normal course of the business of the community must be available for inspection and review by properly identified representatives of the Department.

(2) Where the Department identifies rule violations, the assisted living community will receive a written report of inspection. If the assisted living community disagrees with the facts and conclusions stated in the inspection report, it must submit its written statement explaining its disagreement and any evidence supporting the disagreement to the Department within 10 days of the receipt of the written inspection report. Where the Department concurs with the written statement of the assisted living community, it will issue a revised inspection report to the assisted living community.

(3) Within 10 days of receipt of the written report of inspection, the assisted living community must develop a written plan for correcting any rule violations identified. The plan of correction must identify the specific actions that the assisted living community will take by date certain to come into compliance with each rule for which a deficient practice was identified.

(4) A copy of the most recent inspection report and plan of correction must be displayed in the assisted living community in a location that is routinely used by the community to communicate information to residents and visitors instead of being sent to the Department as currently required in Rule 111-8-25-.06(6).

(5) The assisted living community must take the corrective actions necessary to achieve compliance with the rules.

(6) The assisted living community must complete and maintain an accurate and current licensed residential care profile for inspection upon request by any person using the specific form made available by the Department.

(7) The assisted living community must complete and maintain an accurate and current licensed residential care profile on file with the Department when the Department makes available a system for the submission and collection of such information electronically.

(8) The assisted living community must provide services that are consistent with the information reported on its licensed residential care profile, its license and these rules.

(9) The assisted living community's marketing materials must be consistent with its licensure classification as an assisted living community, the information reported on its licensed residential care profile, and these rules.

(10) Only an assisted living community licensed pursuant to these rules may hold itself out as offering assisted living care.

Authority: O.C.G.A. §§ 31-2-7, 31-2-8, 31-7-1 *et seq.* **History:** Original Rule entitled “Community Accountability” adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.11 Community Design and Use Requirements.

(1) An assisted living community shall be designed, constructed, arranged, and maintained so as to provide for all of the following:

- (a) health, safety, and well-being of the residents;
- (b) independence, privacy and dignity of the residents; and
- (c) safe access of all residents with varying degrees of functional impairments to living, dining and activity areas within the assisted living community.

(2) An assisted living community which undergoes major structural renovation or is first constructed after the effective date of these rules must be designed and constructed in compliance with applicable state and local building and fire codes.

(3) The assisted living community must have handrails, doorways and corridors which accommodate mobility devices, such as walkers, wheel chairs and crutches or canes as the residents may require for their safety.

(4) Assisted living communities serving persons dependent upon wheelchairs for mobility must provide at least two (2) exits from the community which are remote from each other and wheelchair accessible.

(5) Common Areas. The assisted living community must have common areas which meet the following requirements:

(a) The assisted living community must have separate and distinct living room(s) which are conveniently located within easy walking distance of each resident's private living space, available for the residents' informal use at any time and not requiring any resident to leave the building to use.

(b) The assisted living community must have living rooms large enough to accommodate the residents without crowding. The rooms must be comfortably and attractively furnished.

(c) The assisted living community must have areas in the community for use by residents and visitors which afford them privacy.

(d) The assisted living community must have a kitchen and a comfortable dining area which are properly equipped and adequate in size for the number of residents being served.

(e) All stairways and ramps must have sturdy and securely fastened handrails, not less than 30 inches nor more than 34 inches above the center of the tread. Exterior stairways, decks and porches must have handrails on the open sides.

(f) Floor coverings must be intact and securely fastened to the floor and free of hazards that might cause tripping.

(g) All areas of the assisted living community, including hallways and stairs must provide sufficient ambient lighting such that the residents may move about safely and objects may be easily observed by the residents. In addition, appropriate task lighting necessary for more visually demanding activities such as reading, knitting or preparing food must also be provided for resident use.

(h) The assisted living community must provide laundering facilities on the premises for residents' personal laundry.

(i) An assisted living community which provides laundry services for the residents must have a storage area that is used for clean laundry that is separate from the dirty laundry.

(j) Common areas, such as living, dining, activity, laundry or other multi-purpose rooms, or hallways must not be used as sleeping accommodations for residents, family or staff.

(6) Bedrooms or Private Living Spaces. The assisted living community must have bedrooms or private living spaces for the residents which meet the following requirements:

(a) Bedrooms or private living spaces assigned to individual residents must have at least 80 square feet of usable floor space per resident with no more than two residents sharing the private living space. Usable floor space is defined as that floor space under a ceiling at least seven feet in height. However, licensed personal care homes approved prior to or on February 6, 1981 to operate with bedrooms with a minimum of 70 square feet of usable floor space per resident which have continuously operated since that date seeking licensure as assisted living communities, may continue to use the minimum 70 square feet standard. Where an assisted living community operating under this exception has its permit revoked, changes ownership, changes location, or undergoes extensive renovations, or for any other reason surrenders its permit, this exception regarding the minimum square footage is no longer available.

(b) The resident's private living space must be self-contained and separated from halls, corridors and other rooms by floor to ceiling walls and must not be used as a passageway or corridor by others to access other parts of the assisted living community.

(c) The resident's private living space must have at least one window opening through an exterior wall of the assisted living community.

(d) Each sleeping room must have a secondary exit. This secondary exit may be a door or a window usable for escape.

(e) A room must not be used as a bedroom or private living space where more than one-half the room height is below ground level. Bedrooms or private living spaces which are partially below ground level must have adequate natural light and ventilation and have two useful means of egress. Control of dampness must be assured.

(f) Doorways of bedrooms or private living spaces occupied by residents must be equipped with side-hinged permanently mounted doors equipped with positively latching hardware which will insure opening of the door by a single motion, such as turning a knob or by pressing with normal strength on a latch. For bedrooms or private living spaces which have locks on doors, both the occupant and staff must be provided with keys to assure easy entry and exit.

(7) Bathing and Toileting Facilities. The assisted living community must provide bathing and toileting facilities that meet the accessibility needs of the residents and the following requirements:

(a) At least one toilet and lavatory must be provided for each four residents' use based on the licensed capacity of the assisted living community.

(b) At least one bathing or showering facility must be provided for each eight residents based on the licensed capacity of the assisted living community. Assisted living communities serving residents who are dependent on wheel chairs or walkers, for mobility must have fully accessible bathrooms available for these residents.

(c) There must be at least one toilet and lavatory provided on each floor where residents have bedrooms.

(d) There must be a separate toilet and lavatory for the staff's use that is not counted in the minimum ratio of toilets and lavatories required for residents.

(e) Grab bars and nonskid surfacing or strips must be properly installed in all showers and bath areas.

(f) Bathrooms and toilet facilities must have working exhaust fans vented to the outside or windows that are screened and open to the outside easily.

(g) Toilets, bathtubs and showers must provide for individual privacy.

(8) Electrical Inspection. An applicant to operate an assisted living community must submit evidence of a satisfactory inspection of the electrical service of the assisted living community by a qualified electrician within no more than six months prior to the date of filing the application for a permit. However, where the applicant holds a personal care home permit for the premises at the time of the application to become an assisted living community, no new electrical inspection is required unless renovation or repair work has been done since the last electrical inspection. Electrical service must be maintained in a safe condition at all times. The Department may require a re-inspection of the electrical service at any time renovation or repair work is done in the assisted living community or there is a request for a change in capacity or there is reason to believe that a risk to residents exists.

(9) Fire Safety. The assisted living community must have an effective fire safety program for the benefit of the residents which takes into account the unique needs of the residents being served.

(a) The assisted living community must comply with applicable fire and safety rules published by the Office of the Safety Fire Commissioner.

(b) The assisted living community must comply with applicable local ordinances that specifically address fire safety.

(c) The assisted living community is required to obtain a repeat fire safety inspection if at any time the physical plant undergoes substantial repair, renovation or additions.

(d) Where the Department has reason to believe, based on the number of residents requiring assisted self-preservation and staffing patterns that an assisted living community may not be able to evacuate all of the residents to a designated point of safety within an established period of time as determined by the Office of the Safety Fire Commissioner, the Department may either require the assisted living community to conduct an immediate fire safety drill or make a referral for a new compliance determination to the Office of the State Fire Commissioner.

(10) Water and Sewage. The assisted living community's water and sewage systems must meet applicable federal, state, and local regulations.

(11) Outdoor Spaces. Assisted living communities must provide or have conveniently located access to outdoor spaces for the use of the residents and access to parking spaces for the use of residents and visitors. Such outdoor spaces may include solarium, porches, balconies, roof decks, gardens or patios.

Authority: Ga. O.C.G.A. §§ 31-2-7, 31-2-8, 31-7-1, *et seq.* **History:** Original Rule entitled "Community Design and Use Requirements" adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.12 Community Furnishings.

- (1) The assisted living community must provide furnishings throughout the assisted living community for the use of the residents that are maintained in good condition, intact, and functional.
- (2) The assisted living community must provide a name plate, or other identification, outside the resident's bedroom or personal living space that marks the area as the personal living space of the particular resident(s), unless the resident specifically requests no identification markers to be used.
- (3) Each resident's bedroom or private living space must have an adequate closet or wardrobe.
- (4) Each resident's bedroom or private living space must have working lighting fixtures sufficient for reading and other resident activities.
- (5) If the community provides the furnishings, each resident's bedroom or private living space must have a bureau or dresser or the equivalent and at least one comfortable chair per resident in each bedroom or private living space.
- (6) Each resident bedroom must have a mirror appropriate for grooming unless the resident or resident's representative explicitly requests to have the mirror removed.
- (7) Each resident's bedroom or private living space must have a waste basket unless the resident or resident's representative specifically requests to have it removed.
- (8) The assisted living community must allow the resident to personalize the bedroom or private living space as the resident chooses by permitting the resident to use personal furniture so long as such furnishings do not pose a threat to the health or safety of the other residents. The assisted living community must provide the resident with assistance in mounting or hanging pictures on bedroom walls.
- (9) Each resident must have an individual bed which is at least 36-inches wide and 72-inches long with comfortable springs and mattress, clean and in good condition. Where a particular resident is very tall, the assisted living community must provide an extra-long mattress. The mattress must not be less than five-inches thick, or four-inches, if of a synthetic construction. Roll-a-ways, cots, double-decks, stacked bunks, hide-a-beds and studio couches are not to be provided by the assisted living community in lieu of standard beds. However, residents who prefer to furnish their own living units may choose to use different-sized beds in lieu of standard twin-size beds.
- (10) The assisted living community must make available for each resident who requires linen service an adequate supply of clean linens which includes, at a minimum, two sheets, pillow, pillowcase, blanket, bedspread, towels and wash cloth. If the resident requires more blankets for comfort, the assisted living community must provide them.

(11) The assisted living community must change and launder linens for each resident at least weekly or more often unless the resident specifically declines the linen service. Whether or not the resident declines linen services, the assisted living community must maintain an adequate supply of spare linens on hand to accommodate the needs of the residents.

(12) At least one current calendar and working clock must be placed in the common living area of each assisted living community.

Authority: O.C.G.A. §§ 31-2-7, 31-2-8, and 31-7-1 *et seq.* **History:** Original Rule entitled “Community Furnishings” adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.13 Community Safety Precautions.

(1) The interior and exterior of the assisted living community must be kept clean, in good repair and maintained free of unsanitary or unsafe conditions which might pose a health or safety risk to the residents and staff.

(2) Where the assisted living community includes private living space for persons who are not receiving services as residents of the assisted living community, the maintenance of the private living space must comply with fire safety codes and not threaten the health or safety of the residents.

(3) The assisted living community must maintain wall-type electric outlets and working lamps or light fixtures throughout the assisted living community in good working order and which are safe for the intended use. The assisted living community must provide necessary light bulbs.

(4) Refrigeration and cooking appliances must be properly installed, maintained in accordance with manufacturer's recommendations and kept clean. Where metal hoods or canopies are provided, they must be equipped with filters which are maintained in an efficient condition and kept clean at all times.

(5) Space heaters must not be used, except during an emergency situation after obtaining specific written approval of the fire safety authority having jurisdiction over the assisted living community.

(6) Fire screens and protective devices must be used with fireplaces, stoves and heaters.

(7) Each assisted living community must be protected with sufficient functioning smoke detectors, powered by house electrical service with battery back-up, which when activated, must initiate an alarm which is audible in the sleeping rooms.

(8) Each assisted living community must have charged 5 lb. or more multipurpose ABC fire extinguishers available for use throughout the community as required by state or local fire codes, whichever is more stringent. These fire extinguishers shall be checked and tagged annually by a licensed fire extinguisher company to assure the extinguishers remain in operable condition.

(9) Each assisted living community must have a working doorbell or doorknocker which is audible to staff inside at all times.

(10) Exterior doors must be equipped with locks which do not require keys to open them from the inside.

(11) Entrances and exits, sidewalks, and escape routes must be maintained free of any hazards such as refuse, equipment, furniture, ice, snow, debris or any other impediments to ensure complete and immediate entry and exit in the case of fire or other emergency.

(12) The assisted living community must have its name and house number displayed so as to be easily visible from the street.

(13) The assisted living community must store and safeguard poisons, caustics, and other dangerous materials in safe areas and separate from food preparation and storage areas, and medication storage areas.

(14) Heated water must be made available by the assisted living community to the residents for their usage and must be comfortable to the touch but must not exceed 120 degrees Fahrenheit (F.).

(15) Where the assisted living community provides transportation to the residents, the assisted living community must maintain on the vehicle: basic emergency contact information on the residents being transported.

Authority: O.C.G.A. §§ 31-2-7, 31-2-8 and 31-7-1 *et seq.* **History:** Original Rule entitled “Community Safety Precautions” adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.14 Emergency Preparedness.

- (1) An assisted living community must develop and maintain a building evacuation plan which contains procedures and mechanisms for alerting and escorting residents to safety when the building must be evacuated as a result of an emergency.
- (2) Lists of residents with room number designations that require assisted self-preservation must be readily accessible to staff responsible for evacuating residents.
- (3) Building evacuation maps with routes of escape clearly marked must be posted conspicuously on each floor of the assisted living community. Assisted living communities must have a clearly accessible route for emergencies throughout the common areas of the assisted living community,
- (4) In addition to the building emergency evacuation plan, each assisted living community must develop and utilize a comprehensive emergency preparedness plan for responding to internal and external disasters and emergency situations which address obtaining emergency transportation, sheltering in place, loss of power and water, evacuation and transporting the residents away from the community utilizing a plan format acceptable to the Department.
- (5) The plan must be readily accessible to staff, residents and their families at the assisted living community and identify the staff position(s) responsible for implementing the plan, obtaining necessary emergency medical attention or intervention for residents.
- (6) The plan must describe clearly how the emergency procedures will be carried out for potential emergency situations or disasters which might likely occur, such as forced evacuation, utility outage or sheltering in place as a result of a hurricane or tornado. The emergency procedures must answer the questions of "who, what, when, where, and how" the assisted living community will be ready to act effectively and efficiently in an emergency situation.
- (7) The entire plan must be rehearsed at least annually with the exception of fire evacuation which must be rehearsed in compliance with fire safety standards. Written and accurate records of rehearsals, including the names of all residents, staff and volunteers participating and times necessary to execute the evacuation rehearsals must be maintained.
- (8) The assisted living community must maintain written records of all incidents which require implementation of the emergency preparedness plan, including a written critique of the performance under the plan.
- (9) The plan must be made available to the local emergency management agency and shared with other organizations involved in disaster preparedness and recovery upon request.
- (10) The plan must be reviewed and updated as changes in circumstances require and at least annually. Written records of plan reviews, incidents, critiques and rehearsals, must be maintained for two years following the action being recorded.

(11) The assisted living community must notify the Department as soon as practicable when an emergency situation occurs which requires implementation of the emergency preparedness plan, but in no event later than one business day after the emergency situation. Such notification to the Department may be verbal initially and must be followed-up in writing within three business days.

(12) The assisted living community must provide timely notification of the relocation address to the residents, their family contacts and representatives, if any, and the Department whenever the assisted living community must relocate the residents as a result of an emergency situation which disrupts the provision of room and board for the residents at the licensed location.

(13) **Emergency Suspension of Rules.** The Department may suspend the requirements of these rules where the Governor of the State of Georgia has declared an emergency or disaster and authorizes the suspension of laws and rules as deemed necessary.

Authority: O.C.G.A. §§ 31-2-7, 31-2-8, 31-7-1 *et seq.*, and 38-3-51. **History:** Original Rule entitled “Emergency Preparedness” adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.15 Admission and Resident Retention.

(1) Resident Profile for Admission. The assisted living community must determine that the potential resident must meet all of the following criteria at the time of admission:

- (a) The resident must be an adult who is at least 18 years of age.
- (b) The resident must not have active tuberculosis, or require continuous medical or nursing care and treatment or require physical or chemical restraints, isolation or confinement for behavioral control.
- (c) The resident's physical condition must be such that the resident is capable of actively participating in transferring from place to place.
- (d) The resident must be able to participate in the social and leisure activities provided in the assisted living community.

(2) Evaluation of Applicants for Admission. In determining whether the assisted living community will be able to meet the needs of the applicant for admission to the assisted living community, the administrator or on-site manager of an assisted living community must consider and maintain documentation of the following:

- (a) the information provided in an interview with the applicant and/or representative or legal surrogate, if any, regarding the applicant's care and social needs and behavioral issues that may require more watchful oversight;
- (b) a physical examination conducted by a licensed physician, nurse practitioner or physician's assistant dated within 30 days prior to the date of admission which reflects that the resident does not require continuous medical or nursing care and services and is free of active tuberculosis. The report of the physical examination must be completed on forms made available by the Department;
- (c) either the results of an inquiry of the National Sex Offender Registry website coordinated by the Federal Bureau of Investigation or a fingerprint records check;
- (d) where the applicant for admission is a registered sex offender or has committed another violent crime, the assisted living community must document the additional safety measures that the assisted living community will employ to ensure the safety of all residents, such as additional monitoring, room and roommate selection and in-servicing of staff; and
- (e) whether the applicant for admission has retained the services of a designated proxy caregiver which complies with the requirements of the Rules and Regulations for Proxy Caregivers Used In Licensed Healthcare Facilities, Chapter 111-8-100.

(3) **Emergency Placement.** Where the applicant for admission is being evaluated for admission pursuant to an emergency placement made at the request of the Adult Protective Services Section of the Division of Aging Services, Department of Human Services or another licensed facility that is requesting the placement pursuant to activation of its emergency preparedness plan for relocation of residents, the complete physical examination required by Rule 111-8-63-.16(2)(b) may be deferred for up to 14 days after the emergency admission if no record of a qualifying physical examination or a copy of a current clinical record is available at the time of admission.

(4) **Community Admission Decisions.** The assisted living community must not admit residents who either do not meet the admission profile or who meet the profile but whose care needs cannot be met by staff available to provide assistance. The assisted living community's decision to admit a resident must reflect that it has taken into account the condition of the resident to be admitted, the needs of currently admitted residents, the assistance with self-preservation current residents require, and the construction of the building including whether such building meets the state fire safety requirements applicable to an existing health care occupancy.

(5) **Community Retention Decisions.** The assisted living community must require a resident to move out when any one of the following occurs:

- (a) The resident requires continuous medical or nursing care.
- (b) The resident's specific care needs cannot be met by available staff in the community, e.g., the resident is not ambulatory and not capable of assisted self-preservation.
- (c) The community is not able to evacuate all of the current residents to a point of safety within established fire safety standards.

(6) **Change in Condition Requiring Reevaluation.** In the event a resident develops a significant change in physical or mental condition, the assisted living community must obtain medical information necessary to determine that the resident continues to meet the retention requirements and the assisted living community is capable of meeting the resident's needs. Where the Department has reason to believe either that the assisted living community cannot meet needs of the resident or the resident no longer meets the retention criteria for living in the licensed assisted living community, the governing body must provide to the Department, upon request, a current physical examination for the resident from a physician, advanced practice registered nurse or physician's assistant as properly authorized.

Authority: O.C.G.A. §§ 31-2-7, 31-2-8 and 31-7-1 *et seq.* **History:** Original Rule entitled "Admission and Resident Retention" adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.16 Admission Agreements.

(1) Contents of the Written Admission Agreement. The assisted living community must ensure that the admission agreement is written in plain and understandable language and is consistent with the information contained on the licensed residential care profile.

(a) The admission agreement must include a current statement of all fees and daily, weekly or monthly charges; the services covered by those basic fees and any other services which the assisted living community provides on an additional fee basis.

(b) The admission agreement must contain a statement that residents and their representatives or legal surrogates shall be informed, in writing, at least 60 days prior to changes in established charges and services.

(c) The admission agreement must contain provisions for the administrator or on-site manager's continuous assessment of the resident's needs, referral for appropriate services as may be required if the resident's condition changes and referral for transfer or discharge if required due to a change in the resident's condition.

(d) The admission agreement must contain a description of how the community responds to formal complaints received from residents and their representatives and how to file a complaint within the community.

(e) The admission agreement must contain provisions for transportation of residents for shopping, recreation, rehabilitation, medical services. Such transportation service may be provided by the assisted living community as either a basic service or on a reimbursement basis; with transportation for emergency use available at all times.

(f) The admission agreement must include the assisted living community's refund policy when a resident dies, is transferred or discharged.

(g) The admission agreement must include a statement that a resident may not be required to perform services for the assisted living community.

(h) The admission agreement must include a copy of the house rules, which must be in writing and also posted in the assisted living community and explain how violations of the house rules will be addressed by the community. House rules must be consistent with residents' rights. House rules must include, but not be limited to policies regarding the use of tobacco and alcohol, the times and frequency of use of the telephone, visitors, elopement from the community, hours and volume for viewing and listening to television, radio and other audiovisual equipment, whether residents' personal pets or household pets are permitted and the use of personal property.

(i) The admission agreement must disclose how and by what level of staff medications are handled in the community. The agreement must also specify who is responsible for initial

acquisition and refilling of prescribed medications utilizing unit or multidose packaging for the resident. Either this responsibility will remain with the resident, representative or legal surrogate, if any, or be assigned to the assisted living community operating through the administrator or on-site manager.

(j) The admission agreement must disclose whether the community permits the resident to employ independent proxy caregivers, sitters, etc. or requires the purchase of such services from approved providers.

(2) The assisted living community must provide each resident, representative, legal surrogate with an opportunity to read the complete agreement prior to the execution of the admissions agreement. In the event that a resident, representative or legal surrogate is unable to read the agreement, the administrator or on-site manager must take steps to assure communication of the contents of the admission agreement to be signed.

(3) The assisted living community must provide the resident and representative or legal surrogate, if any, with a signed copy of the agreement. A copy signed by both parties (resident and administrator or on-site manager) must be retained in the resident's file and maintained by the administrator or on-site manager of the assisted living community.

(4) The assisted living community must not use a written admission agreement or any other written agreement signed by the resident or the resident's legal representative which waives or attempts to waive any of the resident's rights these rules protect.

Authority: O.C.G.A. §§ 31-2-7, 31-2-8, 31-7-1 *et seq.* **History:** Original Rule entitled "Admission Agreements" adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.17 Services in the Community.

(1) The assisted living community must provide assisted living, including protective care and watchful oversight, which meets the needs of the residents it admits and retains.

(2) **Resident Needs Assessment.** The assisted living community must complete an assessment of the resident that addresses the resident's care needs taking into account the resident's family supports, the resident's functional capacity relative to the activities of daily living, physical care needs, medical information provided, cognitive and behavioral impairments, if any, and personal preferences relative to care needs.

(3) **Written Care Plan.** Utilizing the information acquired during the admission process and the move-in adjustment period, the assisted living community must develop the resident's individual written care plan within 14 days of admission and require staff to use the care plan as a guide for the delivery of care and services to the resident. The care plan must include the following:

(a) a description of the resident's care and social needs and the services to be provided, including frequency to address care and social needs;

(b) resident's particular preferences regarding care, activities and interests;

(c) specific behaviors to be addressed with interventions to be used;

(d) any physician order or order of a nurse practitioner or physician assistant working under protocol or job description, respectively for assistive devices;

(e) staff primarily responsible for implementing the care plan;

(f) evidence of family involvement in the development of the plan when appropriate; and

(g) evidence of the care plan being updated at least annually and more frequently where the needs of the resident change substantially or the resident is assigned to a specialized memory care unit.

(4) **Social Activities.** Each assisted living community must provide social activities on a daily basis that promote the physical, mental and social well-being of each resident and take into account the personal preferences of the residents.

(5) **Activity Resources.** The assisted living community must provide, books, current newspapers or magazines, and games for leisure time activities. The assisted living community must offer assistance to residents who wish to participate in hobbies, music, arts and crafts, religion, games, and sports, social, recreational and cultural activities available in the assisted living community and in the community.

(6) **Available Telephone.** The assisted living community must have at least one operable, non-pay telephone which is accessible at all times for emergency use by staff on the premises. Residents must also have access to an operable, non-pay telephone in a private location, both to make and receive personal calls. The same telephone may be used for staff and resident access.

(7) The assisted living community must not restrict a resident's free access to the common areas of the assisted living community or the specialized memory care unit or lock the resident into or out of the resident's bedroom.

(8) **Proxy Caregiver Services.** Where the assisted living community chooses to allow proxy caregivers to function in the community to perform certain health maintenance activities that are not covered in the basic assisted living care the community is required to provide, the assisted living community must do either of the following:

(a) Provide employees who are available for designation by a resident to serve as proxy caregivers to perform certain health maintenance activities; or

(b) Permit the resident or a person legally authorized to act on behalf of the resident to employ designated proxy caregivers to provide health maintenance activities.

(9) **Proxy Caregiver Records.** The community must maintain documentation on all proxy caregivers performing health maintenance activities which complies with the Rules and Regulations for Proxy Caregivers, Chapter 111-8-100.

(10) **Prohibited Proxy Caregiver Services.** Where the assisted living community employs proxy caregivers, the community must not permit proxy caregivers to provide assistance with or administer medications.

(11) Medical, nursing (other than developing and updating care plans, training, medication administration and skills competency determinations) health services required on a periodic basis, or for short-term illness, must not be provided as services of the assisted living community. When such services are required, they shall be purchased by the resident or the resident's representative or legal surrogate, if any, from appropriately licensed providers which are managed independently and not owned or operated by the assisted living community. The assisted living community may assist in arrangement for such services, but not in the provision of those services.

Authority: O.C.G.A. §§ 31-2-7, 31-2-8, 31-7-1, *et seq.* and 43-26-12. **History:** Original Rule entitled "Services in the Community" adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.18 Requirements for Memory Care Services.

(1) An assisted living community which serves residents with cognitive deficits which place the residents at risk of eloping, i.e. engaging in unsafe wandering activities outside the assisted living community must do the following:

(a) Develop, train and enforce policies and procedures for staff to deal with residents who may wander away from the assisted living community including what actions, are to be taken if a resident wanders away (elopes) from the assisted living community.

(b) Utilize appropriate effective safety devices, which do not impede the residents' rights to mobility and activity choice or violate fire safety standards, to protect the residents who are at risk of eloping from the premises.

1. If the safety devices include magnetic locks used on exit doors, as approved by the fire marshal having jurisdiction over the assisted living community, then the locking device shall be electronic and release whenever the following occurs: activation of the fire alarm or sprinkler system, power failure to the assisted living community or by-pass for routine use by the public and staff for service using a key button/key pad located at the exit or continuous pressure for thirty (30) seconds or less.

2. If the safety devices include the use of keypads to lock and unlock exits, then directions for their operations shall be posted on the outside of the door to allow individuals' access to the unit. However, if the unit is a whole assisted living community, then directions for the operation of the locks need not be posted on the outside of the door. The units must not have entrance and exit doors that are closed with non-electronic keyed locks nor shall a door with a keyed lock be placed between a resident and the exit.

(2) An assisted living community serving residents who are at risk of eloping from the premises must retain on file at the assisted living community current pictures of any such residents.

Authority: O.C.G.A. §§ 31-2-7, 31-2-8, 31-7-1 *et seq.* **History:** Original Rule entitled "Requirements for Memory Care Services" adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.19 Additional Requirements for Specialized Memory Care Units

(1) In addition to all other requirements contained in this Chapter, where an assisted living community holds itself out as providing additional or specialized care to persons with probable diagnoses of Alzheimer's Disease or other dementia or charges rates in excess of that charged other residents because of cognitive deficits which may place the residents at risk of eloping, the assisted living community must meet the following requirements:

(a) **Written Description.** The assisted living community must include in its licensed residential care profile an accurate written description of the special care unit that includes the following:

1. a statement of philosophy and mission;
2. how the services and activities of the special care unit are different from those provided in the rest of the assisted living community;
3. staffing including job titles of staff who work in the unit, staff training and continuing education requirements;
4. admission procedures, including screening criteria;
5. assessment and service planning protocol, including criteria to be used that would trigger a reassessment of the resident's status before the customary quarterly review;
6. staffing patterns, including the ratio of direct care staff to resident for a 24-hour cycle, and a description of how the staffing pattern differs from that of the rest of the program;
7. a description of the physical environment including safety and security features;
8. a description of activities, including frequency and type, and how the activities meet the needs of residents with dementia,
9. the program's fee or fee structure for all services provided by the unit or assisted living community;
10. the discharge criteria and procedures;
11. the procedures that will be utilized for handling emergency situations; and
12. the involvement of the unit with families and family support programs.

(b) **Physical Design, Environment, and Safety.** The memory care unit or special care unit must be designed to accommodate residents with severe dementia or Alzheimer's Disease in an assisted living community-like environment which includes the following:

1. multipurpose room(s) for dining, group and individual activities which are appropriately furnished to accommodate the activities taking place;

2. secured outdoor spaces and walkways which are wheel chair accessible and allow residents to ambulate safely but prevent undetected egress;

3. high visual contrast between floors and walls and doorways and walls in resident use areas—except for fire exits, door and access ways which may be designed to minimize contrast to conceal areas where the residents should not enter;

4. adequate and even lighting which minimizes glare and shadows;

5. the free movement of the resident, as the resident chooses, between the common space and the resident's own personal space in a bedroom that accommodates no more than two (2) residents;

6. individually identified entrances to residents' rooms to assist residents in readily identifying their own personal spaces;

7. an effective automated device or system to alert staff to individuals entering or leaving the unit in an unauthorized manner. An assisted living community need not use an automated alert for an exit door when the particular exit is always staffed by a receptionist or other staff member who views and maintains a log of individuals entering and leaving the assisted living community. If the exit door is not always staffed, then the assisted living community must activate an automated alert when the door is not attended;

8. communication system(s) which permit staff in the unit to communicate with other staff outside the unit and with emergency services personnel as needed; and

9. a unit providing specialized memory care services which undergoes major renovation or is first constructed after December 9, 2009, must be designed and constructed in compliance with applicable state and local building and fire codes relevant to the specialized unit and the assisted living community.

(c)Staffing and Initial Staff Orientation. The assisted living community must ensure that the contained unit is staffed with sufficient specially trained staff to meet the unique needs of the residents in the unit.

1. At a minimum, the assisted living community must employ certified medication aides in the unit to administer certain medications.

2. At least one staff member who is awake and supervising the unit at all times and sufficient numbers of trained staff on duty at all times to meet the needs of the residents.

3. Staff who, prior to caring for residents independently, have successfully completed an orientation program that includes at least the following components in addition to the general

training required in Rule 111-8-63-.09:

(i) the assisted living community's philosophy related to the care of residents with dementia in the unit;

(ii) the assisted living community's policies and procedures related to care in the unit and the staff's particular responsibilities including wandering and egress control; and

(iii) an introduction to common behavior problems characteristic of residents residing in the unit and recommended behavior management techniques.

(d) Initial Staff Training. Within the first six months of employment, staff assigned to the unit shall receive training in the following topics:

1. the nature of Alzheimer's Disease and other dementias, including the definition of dementia, and knowledge of dementia-specific care needs;

2. common behavior problems and recommended behavior management techniques;

3. communication skills that facilitate better resident-staff relations;

4. positive therapeutic interventions and activities such as exercise, sensory stimulation, activities of daily living skills;

5. the role of the family in caring for residents with dementia, as well as the support needed by the family of these residents;

6. environmental modifications that can avoid problematic behavior and create a more therapeutic environment;

7. development of comprehensive and individual service plans and how to update or provide relevant information for updating and implementing them consistently across all shifts, including establishing baseline care needs;

8. new developments in dementia care that impact the approach to caring for the residents in the special unit;

9. skills for recognizing physical or cognitive changes in the resident that warrant seeking medical attention; and

10. skills for maintaining the safety of residents with dementia.

(e) Special Admission Requirements for Unit Placement. Residents must have a physician's report of physical examination completed within 30 days prior to admission to the community or unit on forms made available by Department. The physical examination must clearly reflect that the resident has a diagnosis of probable Alzheimer's Disease or other

dementia and has symptoms which demonstrate a need for placement in the specialized unit. However, the unit may also care for a resident who does not have a probable diagnosis of Alzheimer's Disease or other dementia, but desires to live in this unit and waives his or her right to live in a less restrictive environment. In addition, the physical examination report must establish that the potential resident of the unit does not require 24-hour skilled nursing care.

(f) Post-Admission Assessment. If the resident is admitted directly into the specialized memory care unit, the unit must obtain an assessment of each resident's care needs to include the following components: resident's family supports, level of activities of daily living functioning, physical care needs and level of behavior impairment.

(g) Individual Written Care Plan and Reviews. The resident's written care plan will be developed or updated by staff with at least one member of the specialized memory care staff providing direct care participating. Input from each shift of direct care staff that provides care to the resident will be requested. All team members participating shall sign the written care plan and the plan will be shared with the direct care staff providing care to the resident and serve as a guide for the delivery of care to the resident. The written care plan must be reviewed at least quarterly and modified as changes in the resident's needs occur.

(h) Therapeutic Activities. The unit shall provide activities appropriate to the needs of the individual residents and adapt the activities, as necessary, to encourage participation of the residents in the following at least weekly with at least some therapeutic activities occurring daily:

1. gross motor activities; e.g. exercise, dancing, gardening, cooking, etc;
2. self-care activities; e.g. dressing, personal hygiene/grooming;
3. social activities; e.g. games, music;
4. sensory enhancement activities, e.g. distinguishing pictures and picture books, reminiscing and scent and tactile stimulation; and
5. outdoor activities; e.g. walking outdoors and field trips.

(2) No licensed assisted living community is permitted to hold itself out as providing specialized care for residents with probable Alzheimer's disease or other dementia or charge a differential rate for care of residents with cognitive deficits that place the residents at risk of engaging in unsafe wandering activities (eloping) unless it meets the additional requirements specified in Rule 111-8-63-.19(1) and its subparagraphs (a) through (h) above.

Authority: O.C.G.A. §§ 31-2-7, 31-2-8, 31-7-1 et seq. *et seq.* and 43-26-32. **History:** Original Rule entitled "Additional Requirements for Specialized Memory Care Units" adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.20 Medications.

(1) Self-Administration of Medications. Residents who have the cognitive and functional capacities to engage in the self-administration of medications safely and independently without staff assistance or supervision must be allowed to store their own medications securely and self-administer medications if they so desire.

(2) Assistance with Self-Administration. An assisted living community must provide assistance with or supervision of self-administered medications to those residents who have the cognitive capacity to engage in the self-administration of medications, but require or request staff assistance with or supervision of the self-administration of medications for safety or convenience.

(a) Such staff assistance with or supervision of self-administered medications may only be provided for unit or multi-dose packaged medications prescribed for the particular resident and may include only the following tasks:

1. taking the medication, in its previously dispensed, properly labeled container, from where it is stored, and bringing the medication to the resident;
2. reading the label, opening the container, removing a prescribed amount of medication from the container, and closing the container, in the presence of the resident;
3. placing an oral dosage in the resident's hand or placing the dosage in another container where the resident requests assistance;
4. applying topical medications;
5. returning the medication container to proper secured storage; and
6. assisting the resident's use of an EPI pen where the resident has known severe allergies for which an EPI pen has been prescribed on condition that there is an established written protocol detailing how it is to be used and when. The protocol must include immediately calling Emergency Services, 911, after any use of the EPI pen.

(b) Staff assisting with or supervising self-administration of medications must be proficient in English and able to read, write and follow written instructions in English.

(3) Community Administration of Medications. Where the residents either are not capable of self-administration of medications or choose not to self-administer medications with assistance or supervision, the assisted living community must provide medication administration services to the residents in accordance with physicians' orders, the needs of the residents and these rules.

(4) Specialized Staffing for Medication Administration. The assisted living community offering medication administration services must employ certified medication aides, at a minimum, to administer medications.

(5) Certified Medication Aide Requirements. An assisted living community using certified medication aides to administer specific medications must do all of the following:

(a) Check the Registry. Ensure that the medication aides employed in the community are listed in good standing on the Georgia Certified Medication Aide Registry and have no record of being terminated for cause relating to the performance of medication aide tasks before permitting the aides to administer medications.

(b) Administer Skills Competency Checks. Determine and document that the medication aides who have been certified for more than one year upon hiring, continue to have the knowledge and skills necessary to administer medications properly for the particular community. The community must use a skills competency checklist which meets the requirements contained in the standardized clinical skills competency checklist used to certify medication aides.

(c) Quarterly Observations. Use a licensed registered professional nurse or a pharmacist to conduct quarterly random medication administration observations to determine that the aides are administering medications correctly and in compliance with these rules and report any issues to the assisted living community administration for resolution.

(d) Quarterly Drug Regimen Reviews. Secure the services of a licensed pharmacist to perform all of the following duties:

1. Conduct quarterly reviews of the drug regimen for each resident of the assisted living community and report any irregularities to the assisted living community administration.
2. Remove for proper disposal any drugs that are expired, discontinued or in a deteriorated condition or where the resident for whom such drugs were ordered is no longer a resident.
3. Establish or review policies and procedures for safe and effective drug therapy, distribution, use and control.
4. Monitor compliance with established policies and procedures for medication handling and storage.

(e) Authorized Tasks for Certified Medication Aides. An assisted living community may allow a certified medication aide to do only the following tasks related the administration of medications utilizing only unit or multidose packaging of medications:

1. Administer physician ordered oral, ophthalmic, topical, otic, nasal, vaginal and rectal medications.

2. Administer insulin, epinephrine, and B12 pursuant to physician direction and protocol.
3. Administer medications via a metered dose inhaler.
4. Conduct finger stick blood glucose testing following established protocol.
5. Administer a commercially prepared disposable enema ordered by a physician.
6. Assist residents in the supervision of self-administration of medications.

(f) Annual Competency Reviews. Complete comprehensive clinical skills competency reviews for each certified medication aide utilizing the skills competency checklist at least, annually after hiring to determine that the aides continue to have the necessary skills to perform the medication tasks assigned competently. Such skills competency checklists must be administered by Georgia-licensed registered nurses, pharmacists or physicians, who indicate in writing that the tasks observed are being performed competently.

(g) Proper Notice of Separation for Cause. Ensure that where a medication aide is terminated for cause relating to the performance of medication aide tasks, the aide is provided with the following:

1. a separation notice that clearly describes the facts that support the termination for cause;
2. written notice that being terminated for cause related to the administration of medications, if not successfully appealed through a hearing on right to unemployment benefits will result in the loss of good standing on the Georgia Certified Medication Aide Registry; and
3. the loss of good standing on the Certified Medication Aide Registry will make the aide ineligible for hiring as a certified medication aide by another assisted living community; and

(h) Registry Notification. Submit to the Georgia Certified Medication Aide Registry a copy of the Separation Notice for the certified medication aide only if the separation related specifically to the performance of medication aide tasks and the termination for cause has either been finally upheld by the Department of Labor or the time for appealing the Separation Notice has expired.

(6) Communities Conducting Certified Medication Aide Training. A community choosing to provide a certified medication aide training program must do all of the following:

(a) Utilize the state-approved medication aide training program ensuring that the training is administered by a Georgia-licensed registered nurse, pharmacist, or physician.

(b) Require the aide to demonstrate the requisite clinical skills to serve as a medication aide before a Georgia-licensed registered nurse, pharmacist or physician utilizing the standardized medication administration checklist developed by the Department.

(c) Prepare the aide to take the written competency examination to become a certified medication aide.

(d) Verify that the aide is in good standing on the Georgia certified nurse aide registry.

(e) Provide information to the aide on the registration and locations for taking the written competency examination.

(f) Provide the documentation to the Georgia Certified Medication Aide Registry that is necessary to complete the application for placement of the aide's name on the Georgia Certified Medication Aide Registry.

(g) Not permit the aide to administer medications independently unless the aide is listed on the Georgia certified medication aide registry in good standing.

(7) Basic Medication Training for Staff Assisting with Self-Administration. The assisted living community must provide and document medication training for the unlicensed staff who are not certified medication aides but who are providing assistance with or supervision of self-administration of medications to capable residents. The medication training must be conducted with an appropriate curriculum for providing medication assistance and include at least the following topics:

(a) the assisted living community's medication policy and procedures, including actions to take if concerns regarding resident's capacity to self-administer medications are identified;

(b) how to read prescription labels including common abbreviations;

(c) providing the right medication to the right resident at the right time in the right amount and the right way including how to measure various medications;

(d) actions to take when concerns regarding medications are identified;

(e) infection control procedures relative to providing assistance with medications;

(f) proper medication storage and disposal;

(g) recognition of side effects and adverse reactions for the specific medications;

(h) understanding the common classifications of medications, typical side effects and adverse reactions and medications for which unlicensed staff may never provide assistance with or supervision of self administration; and

(i) proper documentation and record keeping using the Medication Assistance Record.

(8) Medication Skills Competency Determinations. Unlicensed staff who are not certified as medication aides providing assistance with or supervision of self-administered medications must demonstrate when hired and at least, annually thereafter, the necessary skills to perform the medication tasks assigned competently by completing skills competency checklists before appropriately trained community staff.

(9) Maintaining Records on Medication Assistance and Administration. Where the assisted living community either provides assistance with, or supervision of self-administered medications or administers medications to residents, the community must maintain a daily Medication Assistance Record (MAR) for each resident who receives assistance or administration. The MAR must include the name of the specific resident, any known allergies, the name and telephone number of the resident's health care provider, the name, strength and specific directions including key side effects and adverse reactions for use of each medication and a chart for staff who provide assistance or administration to record initials, time and date when medications are taken, refused or a medication error is identified (e.g. missed dosage). The staff providing the assistance or administration of medications must update the MAR each time the medication is offered or taken.

(a) The assisted living community must make medication information concerning the descriptions of medication, dosing, side effects, adverse reactions and contraindications for each medication being administered to the residents immediately available for reference by staff providing medication assistance or administration.

(b) Staff of the assisted living community providing assistance with or administration of medications must document in the resident's record any unusual reactions to the medications and provide such information to the resident, the resident's representative and the health care provider as appropriate.

(10) Orders Required for All Medications. An assisted living community must not allow its staff to assist with, provide supervision of self-administered medications or administer any medications, including over-the-counter medications, unless there is a physician's order specifying clear instructions for its use on file for the resident.

(11) Timely Management of Medication Procurement. Where the assisted living community procures medications on behalf of the residents, the community must obtain new prescriptions within 48 hours of receipt of notice of the prescription or sooner if the prescribing physician indicates that a medication change must be made immediately. If the pharmacy does not have the medication needed for the immediate change, available and has not obtained further directions from the physician, the community must notify the physician of the unavailability of the prescription and request direction. Refills of prescribed medications must be obtained timely so that there is no interruption in the routine dosing. Where the assisted living community is provided with a new medication for the resident, the MAR must be modified to reflect the addition of the new medication within 48 hours or sooner if the prescribing physician indicates that the medication change must be made immediately.

(12) Storage and Disposal of Medications. Medications must be stored securely and inventoried appropriately to prevent loss and unauthorized use. Medications must be stored under lock and key at all times whether kept by a resident or kept by the assisted living community for the resident, unless the medication is required to be kept by the resident on his or her person or staff member in close attendance due to the need for physician-prescribed frequent or emergency use.

(a) Duplicate keys for all medication storage containers must be available on site for appropriate use.

(b) Medications must be kept in original containers with original labels intact.

(c) Medications must be properly labeled in separate unit or multi-unit dose packaging and handled in accordance with physician's instructions, and laws and regulations applicable to the medications.

(d) The assisted living community must ensure that it properly disposes of unused medications using the current U.S. Food and Drug Administration or U.S. Environmental Protection Agency guidelines for the specific medications.

Authority: O.C.G.A. §§ 31-2-7, 31-2-8, and 31-7-1 *et seq.* **History:** Original Rule entitled "Medications" adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.21 Nutrition and Food Preparation.

(1)Regularly Scheduled Meals. The assisted living community must provide a minimum of three regularly scheduled well-balanced meals per day seven days a week which meet the nutritional needs of residents, and must provide therapeutic diets as ordered by the residents' healthcare providers for residents that require special diets. There must be no more than fourteen hours elapsing between the scheduled evening and morning meals.

(2)Nutritious Meals. Meals must meet the general requirements for nutrition adjusted for age, sex and activity, currently found in the Recommended Daily Diet Allowances, Food and Nutrition Board, National Academy of Sciences.

(3)Snacks. Food for at least one nutritious snack must be available and offered each day in addition to the regularly scheduled meals. Snacks are not considered to be meals for the purposes of calculating the time between meals.

(4)Wholesome Food. Food received or used in an assisted living community must be clean, wholesome, free from spoilage, adulteration, and misbranding, and safe for human consumption.

(5)Proper Handling of Food. All foods while being stored, prepared and served must be protected from spoilage and contamination and be safe for human consumption. At a minimum to protect from spoilage and contamination, the assisted living community must do all of the following:

(a)Store perishable foods, such as but not limited to meat, fish, eggs, dairy products, juices at temperatures that will minimize spoilage, i.e. at or below 41 degrees F.

(b)Thaw frozen foods properly, i.e. in the refrigerator or under cold running water with an unplugged sink.

(c)Provide hot and cold running water and sanitizing agents and ensure that they are used appropriately in the kitchen to clean and sanitize food, hands and utensils as required for safe food preparation.

(d)Prevent cross-contamination of foods via hands, cutting boards or utensils during preparation.

(e)Ensure that hot foods leave the kitchen (pot, steam table, etc.) for serving at or above 140 degrees F. and that cold foods leave the kitchen for serving at or below 41 degrees F.

(6)Duties of Food Service Manager. The person designated by the assisted living community as being responsible for managing the preparation of meals for the residents must enforce safe food handling practices which address basic food safety, hygiene, cross contamination, time and temperature requirements and sanitation with staff and residents.

(7)Emergency Food Supply. A 3-day supply of non-perishable dry or canned foods and water, must be on hand at all times in the assisted living community for emergency use. The quantity of food required to be stored must be based on the usual resident census. The food must be kept in sealed containers which are labeled and dated. The food must be rotated in accordance with shelf life to ensure safety and palatability. Water sufficient for drinking and food preparation must also be stored.

(8)Properly Furnished Food Areas. Kitchen and dining areas must be properly equipped with appropriate cabinets, drawers, holders and shelves or racks for storage of necessary equipment and utensils. These rooms must be kept clean and disinfected at least daily unless more frequent sanitization is required to prevent the spread of infection or food borne illnesses.

(9)Food Service Permit Required. An assisted living community must either possess a valid food service permit issued through the authority of the Department of Public Health pursuant to Chapter 290-5-14 or a copy of the valid food service permit of the caterer' who provides meals to the community.

(10) Menu Requirements. Menus to be served in assisted living residences must be dated and planned at least one week in advance for both regular and therapeutic diets. Residents must be encouraged to participate in menu planning. Planned menus must be conspicuously posted or easily available to residents. Regular and therapeutic menus as served, with substitutions noted before the meal is served, must be kept on file in the assisted living community for 30 days.

(11) Food Safety Reports. The assisted living community must retain copies of food safety inspection reports required by law which were issued during the year preceding the most recent inspection. The most recent food service inspection report must be posted in the assisted living community.

(12) Catered Food Service. When the assisted living community uses a catered food service (food service establishment), the assisted living community must ensure that the service is properly licensed, provides meals in accordance with these rules, has a satisfactory record of compliance with food safety requirements and properly transports and stores food at time of delivery to maintain food safety.

(13) Catering Records. An assisted living community utilizing a catered food service must maintain copies of the current contract between the assisted living community and the food service establishment agreeing to provide food service in the assisted living community, the certificate or license authorizing the operation of the food service establishment issued by the county health agency and the most recent food safety inspection reports.

Authority: O.C.G.A. §§ 31-2-7, 31-2-8 and 31-7-1 *et seq.* **History:** Original Rule entitled "Nutrition and Food Preparation" adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.22 Temperature Control.

(1)The temperature throughout the assisted living community must be maintained by an adequate central heating and cooling system or its equivalent at ranges which are consistent with individual health needs of residents and provides a comfortable environment for the residents.

(2)Temperatures in the assisted living community must not fall below 62 degrees F during sleeping hours or above 85 degrees F during the day. Mechanical cooling devices shall be made available for use in those areas of the building used by residents when inside temperatures exceed 80 degrees F.

(3)Where a power outage or mechanical failure impacting the ability of the assisted living community to maintain these temperature ranges occurs, the assisted living community must take immediate action to provide for the health and safety of the residents, including but not limited to, arranging immediately for a service call, providing additional blankets or fans or utilizing an emergency power generator in accordance with the assisted living community's emergency preparedness plan.

Authority: O.C.G.A. §§ 31-2-7, 31-2-8 and 31-7-1 *et seq.* **History:** Original Rule entitled "Temperature Control" adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.23 Infection Control, Sanitation and Supplies.

(1) The assisted living community must have an effective infection control program which includes, at a minimum, the following:

(a) training provided to staff on effective measures for minimizing the spread of infections and food borne illnesses;

(b) responding to disease outbreaks appropriately and participating in infection control investigations;

(c) staff demonstrating their understanding and use of proper infection control practices in their delivery of care to the residents; and

(d) enforcing work and return to work policies to minimize the spread of infection and illnesses.

(2) The assisted living community must have an adequate supply of sanitizing and cleaning agents, e.g., effective hand hygiene products, hand soap, laundry soap, household disinfectants and other cleaning materials, available and used in the assisted living community to minimize the spread of infections.

(3) Toilet tissue, soap, hot and cold running water and clean towels must be available for use wherever commodes are located.

(4) The assisted living community must have a supply of first-aid materials available for use. This supply must include, at a minimum, gloves, band aids, thermometer, tape, gauze, and an antiseptic.

(5) The storage and disposal of bio-medical and hazardous wastes must comply with applicable federal, state, and local rules and/or standards.

(6) Solid waste which is not disposed of by mechanical means must be stored in vermin-proof, leak-proof, nonabsorbent containers with close-fitting covers until removed. Waste must be removed from the kitchen at least daily and from the premises at least weekly.

(7) An insect, rodent or pest control program must be maintained and conducted in a manner which continually protects the health of residents.

(8) Residents' private living spaces or bedrooms must be thoroughly cleaned and sanitized after residents move out of the rooms.

(9) The assisted living community must clean the residents' private living spaces periodically and as needed to ensure that the space does not pose a health hazard.

Authority: O.C.G.A. §§ 31-2-7, 31-2-8 and 31-7-1 *et seq.* **History:** Original Rule entitled “Infection Control, Sanitation and Supplies” adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.24 Residents' Files.

(1) An individual resident file must be maintained by the administrator or on-site manager for each resident in the assisted living community. Personal information must be treated as confidential and must not be disclosed except to the resident and his or her representative or legal surrogate, if any, an authorized agent of the Department, and others to whom written authorization is given by the resident or his representative or legal surrogate, if any. The resident file must be made available for inspection and/or copying to the resident or the resident's representative or legal surrogate, if any, and Department representatives, upon request.

(2) Each resident's file must include the following information:

(a) identifying information including name, social security number, veteran status, age, sex and previous address;

(b) name, address and telephone number of next of kin, legal guardian and/ or representative or legal surrogate, if any, or representative payee and any court order or written document designating the resident's representative or legal surrogate, if any;

(c) name, address and telephone number of any person or agency providing additional services to the resident. This information must include the name of the agency personnel primarily responsible where provided to the community by the person or agency, (i.e., the caseworker, case manager, or therapist);

(d) an admission and discharge log to include the date of admission, prior residence of resident, referral source, agency contact and telephone number of referral source date of discharge, facility or residence discharged to and telephone number;

(e) all individual written care plans required by these rules and the rules for proxy caregivers, Chapter 111-8-100 if applicable;

(f) the name, address and telephone number of a physician, hospital and pharmacy of the resident's choice;

(g) a record of all monetary transactions conducted on behalf of the resident with itemized receipts of all disbursements and deposits;

(h) a record of all monies and other valuables entrusted to the assisted living community for safekeeping; a receipt for same shall be provided to the resident or representative or legal surrogate, if any, at the time of admission and at anytime thereafter when the resident acquires additional property and wishes to entrust such property to the assisted living community for safekeeping;

(i) health information including all health appraisals, diagnoses, prescribed diets, medications, and physician's instructions;

(j) an inventory of valuable personal items brought to the assisted living community for use by the resident to be updated at anytime after admission if a resident or representative or legal surrogate, if any, submits to the assisted living community a new inventory of the resident's personal items;

(k) a signed copy of the Resident's Rights form;

(l) a signed copy of the admission agreement;

(m) any power of attorney or document issued by a court or by the Social Security Administration or any other governmental authority which designates another person as responsible for management of the resident's finances;

(n) a copy of a living will and/or durable power of attorney for health care if executed prior to 2007 or a copy of an executed Georgia advance directive for health care, if any, the forms for which must be made available at the time of admission and remain available to the resident upon request;

(o) any signed medical orders impacting end of life care, e.g. do not resuscitate, physician's orders for life sustaining treatment, etc.

(p) a copy of the resident's written waiver, if any, of the personal needs allowance charge pursuant to the provisions of Rule 111-8-63-.25(p)1;

(q) a copy of any findings from a search of the National Sex Offender Registry maintained through the Department of Justice, etc.; and

(r) any informed written consents signed by the resident or resident's representative, designating and delegating to any trained proxy caregiver, whether employed by the assisted living community or not, the performance of identified health maintenance activities.

(3) The following information may be given voluntarily by the resident, guardian, or representative or legal surrogate, if any, but may not be required of the resident:

(a) religious preference, church membership, name and telephone number of minister, priest or rabbi, if applicable; and

(b) information about insurance policies and prearranged funeral and burial provisions, if any.

(4) Resident files must be maintained by the assisted living community for a period of three years after a resident's discharge.

Authority: O.C.G.A. §§ 31-2-7, 31-2-8, 31-2-9, 31-7-1 *et seq.* and 31-8-131 *et seq.* and 31-32-1 *et seq.* **History:** Original Rule entitled "Residents' Files" adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.25 Supporting Residents' Rights and Obtaining Feedback.

(1) The assisted living community must operate in a manner that respects the personal dignity of the residents and the human rights of the residents which rights cannot be waived, except as provided in these rules by the resident or the resident's representative or legal surrogate.

(a) The assisted living community must provide to each resident care and services which are adequate, appropriate, and in compliance with state law and regulations.

(b) The assisted living community, its agents or employees must not punish or harass a resident because of the resident's efforts to enforce his or her rights.

(c) The assisted living community must operate in a manner that protects each resident's rights to do all of the following:

1. exercise the constitutional rights guaranteed to citizens of this state and this country including, but not limited to, the right to vote;

2. choose activities and schedules consistent with the resident's interests, and assessments;

3. interact with members of the community both inside and outside the assisted living community and to participate fully in the life of the community; and

4. make choices about aspects of his or her life in the assisted living community that are significant to the resident.

(d) Each resident must have the right to enjoy privacy in his or her room. Assisted living community staff and others must respect this right by knocking on the door before entering the resident's room.

(e) Each resident must have the right to associate and communicate freely and privately with persons and groups of the resident's choice without being censored by staff.

(f) If a resident is married and the spouse is also a resident in the assisted living community, the residents must be permitted to share a room unless they request otherwise, subject to the limitation that no more than two residents may share a bedroom or private living space.

(g) Each resident must be treated with dignity, kindness, consideration and respect and be given privacy in the provision of assisted living care. Each resident must be accorded privacy and freedom to use the bathroom(s) at all hours.

(h) No religious belief or practice must be imposed upon any resident. Residents must be free to practice their religious beliefs as they choose. Each resident must have the right to participate in social, religious, and community activities that do not interfere with the rights of other residents.

(i) Each resident must have the right to be free from mental, verbal, sexual and physical abuse, neglect and exploitation.

(j) Each resident has the right to be free from actual or threatened physical or chemical restraints and the right to be free from isolation, corporal, or unusual punishment including interference with the daily functions of living, such as eating or sleeping.

(k) Each resident must have the right to use, keep and control his or her own personal property and possessions in the immediate living quarters, except to the extent a resident's use of his or her property would interfere with the safety or health of other residents. Each resident must have the right to reasonable safeguards for the protection and security of his personal property and possessions brought into the assisted living community.

(l) Each resident's mail must be delivered unopened to the resident on the day it is delivered to the assisted living community. The assisted living community must not permit any resident's outgoing correspondence to be opened or tampered with prior to being mailed or otherwise delivered.

(m) Each resident must have access to a telephone made available by the assisted living community and the right to have a private telephone, at the resident's own expense. Telephones must be placed in areas to insure privacy without denying accessibility.

(n) Each assisted living community must permit immediate access to residents by others who are visiting with the consent of the resident. Residents have the right to have visitors at mutually agreed upon hours. Once the hours are agreed upon, no prior notice is necessary. Each resident also has the right to refuse to see visitors or terminate any visit.

(o) Each resident must have the right to manage his own financial affairs, including the right to keep and spend his own money unless that resident has been adjudicated incompetent by a court of competent jurisdiction. Each resident must have the right to be free from coercion to assign or transfer to the assisted living community money, valuables, benefits, property or anything of value other than payment for services rendered by the assisted living community.

(p) Each resident must have the right to a personal needs allowance for the free use of the resident in the amount of twenty dollars per week to be distributed by the administrator, on-site manager, or a responsible staff person in the assisted living community. The following conditions must be met regarding the personal needs allowance:

1. The personal needs allowance must be included as a charge for services to each resident's account which a resident or a resident's representative or legal surrogate, if any, may waive by signing a written waiver upon admission or anytime thereafter. No allowance charge may be assessed where a resident or a resident's representative or legal surrogate, if any, has signed a written waiver of the personal needs allowance. Such a waiver must be kept in a resident's file.

2. Where no waiver has been signed, the personal needs allowance must be tendered to each resident, in cash, on the same day each week.

3. The personal needs allowance must not be intended or needed for purchasing necessary goods such as toilet paper and light bulbs which the assisted living community ordinarily supplies, and shall in no way relieve the assisted living community of the obligation to insure that such necessary goods are available to the resident.

(q) Each resident must have the right to receive or reject medical care, dental care, or other services by those authorized and/or licensed to provide such medical care except as required by law or regulations.

(r) Each resident must have the right to choose and retain the services of a personal physician and any other health care professional or service. No assisted living community is permitted to interfere with the resident's right to receive from the resident's attending physician complete and current information concerning the resident's diagnosis, treatment and prognosis. Each resident and his or her representative or legal surrogate, if any, must have the right to be fully informed about care provided in the community and of any changes in that care and the right of access to all information in medical records retained by the community.

(s) Each resident must have the right to fully participate in the planning of his or her care and to question the need for changes in the plan of care. Case discussion, consultation and examination must be confidential and conducted discreetly. A person who is not directly involved in the resident's care may be present when care is being rendered only if he or she has the resident's permission. The resident's duly appointed legal surrogate(s) shall have the authority to act on the resident's behalf as established by written applicable federal and state of Georgia law, and shall be entitled to receive information relevant to the exercise of his or her authority.

(t) Each resident, representative or legal surrogate must have the right to inspect his or her records on request. Each resident must have the right to make a copy of all records pertaining to the resident on the premises or obtain a copy from the community. The community may charge a fee for providing photocopies of the records, but such charge may not exceed what is charged by the local library for photocopies. Each resident has the right to confidential treatment of personal information in the resident file.

(u) Each resident who has not been committed to the assisted living community by court order or who does not have a representative or legal surrogate with specific written authority to admit, transfer or discharge, may discharge or transfer himself or herself upon 30 days written notification to the assisted living community in conformance with the assisted living community's policies and procedures.

(v) Each resident must have the right to access to the State Long-Term Care Ombudsman Program O.C.G.A. § 31-8-50 *et seq.* and the name, address, and telephone number of the ombudsman assigned to the assisted living community must be posted in a common area of the assisted living community.

(w) Residents must have the right to form a Resident Council and have meetings in the assisted living community outside the presence of owners, management or staff members of the assisted living community and the assisted living community must provide assistance in coordinating the meetings of the Resident Council.

(2) Each resident must be provided, at the time of admission to the assisted living community, with a copy of the Resident's Bill of Rights, as provided in Rule 111-8-63.25. The Bill of Rights must include provisions for protecting the personal and civil rights of each resident. In the event that a resident is unable to read the Resident's Bill of Rights the manager must take steps to assure communication of its contents to the resident.

(3) An assisted living community must comply with the provisions of the “Remedies for Residents of Personal Care Homes Act” as outlined in O.C.G.A. § 31-8-131 *et seq.*

(4) The assisted living community must ensure that residents and their representatives, where applicable, are given opportunities to provide feedback in writing and otherwise on their satisfaction with the services being provided by the assisted living community with respect to at least the following areas: quality of care, food, activities, cleanliness of the assisted living community and helpfulness of the staff.

(5) The assisted living community must retain a copy of the resident’s record for two years following the date of discharge.

(6) The assisted living community must maintain documentation of the feedback it receives and its response to the feedback.

Authority: O.C.G.A. §§ 31-2-7, 31-2-8, 31-7-1 *et seq.*, 31-8-50 *et seq.* and 31-8-131 *et seq.* **History:** Original Rule entitled “Supporting Resident’s Rights and Obtaining Feedback” adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.26 Procedures for Change in Resident's Condition.

(1) In case of an accident or sudden adverse change in a resident's condition or adjustment, an assisted living community must immediately take the actions appropriate to the specific circumstances to address the needs of the resident, including notifying the representative or legal surrogate, if any. The assisted living community must retain a record of all such adverse changes and the assisted living community's response in the resident's files.

(2) Where the sudden change in the resident's condition causes the resident to become unresponsive, the assisted living community must immediately take one of the following actions:

(a) If the resident is enrolled in a licensed hospice and has a specific hospice plan of care, the assisted living community must contact the hospice for directions regarding the care to be provided. If the hospice staff is not available to provide direction, then the assisted living community must immediately contact the duly-appointed health care agent for direction. If no health care agent has been appointed or is not available, then the assisted living community must immediately contact emergency medical services to arrange for emergency transport and must initiate cardiopulmonary resuscitation if no DNR order has been written.

(b) If the resident has a valid Do Not Resuscitate (DNR) order readily available, the caregiver may effectuate the DNR order if done in good faith.

(c) If the resident has appointed a health care agent in a living will, durable power of attorney for health care or an advance directive for health care which complies with the requirements of O.C.G.A. §31-32-1 *et seq.*, then the assisted living community must immediately contact the health care agent for directions regarding the care to be provided. Where the health care agent is not immediately available and there is no valid DNR order for the resident, the assisted living community must immediately contact emergency medical services to arrange for emergency transport and must initiate cardiopulmonary resuscitation.

(d) If the resident is not enrolled in hospice, and does not have either a DNR or an advance directive, then the staff of the assisted living community must immediately contact emergency medical services to arrange for emergency transport and must initiate cardiopulmonary resuscitation where it is not obvious from physical observation of the resident's body (e.g. body is stiff, cool to the touch, blue or grayish in color, etc.) that such efforts would be futile and there is not a physician, or authorized registered nurse or physician's assistant on site to assess and provide other direction.

(2) The staff must have ready access to phone numbers for emergency medical personnel and the resident's file or appropriate emergency medical and contact information for each resident, both at the assisted living community and when residents are being transported by the assisted living community for any reason.

(3) Immediate investigation of the cause of an accident, injury or death involving a resident must be initiated by the administrator or on-site manager of the assisted living community and a report made to the representative or legal surrogate, if any, with a copy of the report maintained in the resident's file and in a central file for quality assurance review.

Authority: O.C.G.A. §§ 31-2-7, 31-2-8, 31-7-1 *et seq.* and 31-32-1 *et seq.* **History:** Original Rule entitled "Procedures for Change in Resident's Condition" adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.27 Death of a Resident.

(1) Should a resident die while in the assisted living community, the administrator, on-site manager or designated staff must immediately notify the resident's physician, the next of kin, and the representative or legal surrogate, if any, and appropriate law enforcement authorities where the law so requires, such as in the case of a sudden or unexpected death.

(2) Upon death of the resident, the assisted living community must refund to the representative or legal surrogate, if any, any security deposit made to the assisted living community by or on behalf of the resident in compliance with O.C.G.A. §44-7-30 *et seq.*

Authority: O.C.G.A. §§ 31-2-7, 31-2-8, 31-7-1 *et seq.* and 44-7-30 *et seq.* **History:** Original Rule entitled "Death of a Resident" adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.28 Immediate Transfers of Residents.

(1) The administrator or on-site manager of the assisted living community must initiate an immediate transfer to an appropriate setting if the resident develops a physical or mental condition requiring continuous medical care or nursing care.

(2) Where immediate transfer is required to be made, the administrator or on-site manager shall make arrangements for transfer in accordance with the admission agreement and must transfer the resident to an appropriate setting where the resident's needs can be met. Prior to making such transfer, the administrator or on-site manager shall:

(a) inform the resident and representative or legal surrogate, if any, of the reason for the immediate transfer;

(b) inquire as to any preference of the resident and representative or legal surrogate, if any, regarding the appropriate setting to which the resident is to be transferred;

(c) inform the representative or legal surrogate, if any, of the resident's choice regarding such transfer;

(d) inform the resident and the representative or legal surrogate, if any, of the place to which the resident is to be discharged;

(e) provide a copy of the resident file to the receiving setting within 24 hours of transfer; and

(f) document in the resident's file the following:

1. the reason for the immediate transfer;

2. the fact that the resident and the representative or legal surrogate, if anywhere informed pursuant to this paragraph; and

3. appropriate location and contact information regarding the place to which the resident is to be transferred or discharged.

(3) Upon immediate transfer of the resident, the assisted living community must refund to the resident or representative or legal surrogate, if any, any security deposit made to the assisted living community by or on behalf of the resident in compliance with O.C.G.A. § 44-7-30 *et seq.*

Authority: O.C.G.A. §§ 31-2-7, 31-2-8, 31-7-1 *et seq.* and 44-7-30 *et seq.* **History:** Original Rule entitled "Immediate Transfers of Residents" adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.29 Discharge or Transfer of Residents.

(1) Each admission agreement shall include a written procedure for handling the discharge and transfer of the resident. The administrator or on-site manager must contact the representative or legal surrogate, if any, when there is need to discharge or transfer of a resident. The community must provide 30 days' written notice of its intent to discharge or transfer the resident unless an immediate transfer is required. The written notice must be issued to both the resident and the representative or legal surrogate, if any.

(2) In all cases except those requiring immediate transfer pursuant to Rule 111-8-63-.28, residents whose needs cannot be met by the assisted living community or who no longer choose to live in the assisted living community must be discharged or transferred to an appropriate facility or other appropriate setting in accordance with the resident's, representative or legal surrogate's wishes based on discharge and transfer procedures entered into at the time of admission. Where there is no representative or legal surrogate or the representative or legal surrogate is unwilling to act to consent to the discharge or transfer, the administrator or on-site manager must petition the probate court in the county where the assisted living community is located for an order authorizing the discharge or transfer. The transferring assisted living community must provide a copy of the resident file to the receiving facility prior to or at the time of transfer.

(3) Where the Department has reason to believe that a resident is receiving or requires continuous medical or nursing care, other than as permitted by a certified medication aide, the Department may require the assisted living community to discharge the resident. However, the provision of medical, nursing or health services required by the resident on a periodic basis or for a short-term illness, where such services are not provided by the assisted living community is permissible.

(4) Upon discharge or transfer of the resident, the assisted living community must refund to the resident or representative or legal surrogate, if any, any security deposit made to the assisted living community by or on behalf of the resident in compliance with O.C.G.A. § 44-7-30 *et seq.*

Authority: O.C.G.A. §§ 31-2-7, 31-2-8, 31-7-1 *et seq.*, 31-36A-7 and 44-7-30 *et seq.* **History:** Original Rule entitled "Discharge or Transfer of Residents" adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.30 Reports to the Department

(1) The staff of the assisted living community must call the local police department to report the elopement of any resident from the assisted living community within 30 minutes of the staff receiving actual knowledge that such person is missing from the assisted living community in accordance with the Mattie's Call Act and the requirements set forth in O.C.G.A. § 35-3-170 *et seq.* The assisted living community shall also report the initiation and discontinuation of a Mattie's call to the Department within thirty (30) minutes of communications with local law enforcement authorities having occurred.

(2) Whenever a serious incident involving a resident occurs, the assisted living community must report in a format acceptable to the Department either within 24 hours after the incident has occurred, or the assisted living community has reasonable cause to believe that a reportable incident involving a resident has occurred. The serious incidents that must be reported to the Department include the following:

- (a) any accidental or unanticipated death not directly related to the natural course of the resident's underlying medical condition;
- (b) any serious injury to a resident that requires medical attention;
- (c) any rape, assault, any battery on a resident, or any abuse, neglect, or exploitation of a Resident in accordance with the Long Term Care Resident Abuse Reporting Act O.C.G.A. § 31-8-80 *et seq.*;
- (d) an external disaster or other emergency situation that affects the continued safe operation of the residence; and
- (e) when an owner, director or employee acquires a criminal record as defined in these rules.

(3) The incident report required by these rules must be filed with the Department, in confidence and must include at least:

- (a) the name of the assisted living community and the name of the administrator or site manager;
- (b) the date of the incident and the date the assisted living community became aware of the incident;
- (c) the type of incident suspected, with a brief description of the incident; and
- (d) any immediate corrective or preventative action taken by the assisted living community to ensure against the replication of the incident.

(4) Where the Department determines that a rule violation related to the incident has occurred, the Department will initiate a separate complaint investigation of the incident. The complaint investigation report and the report of any rule violation compiled by the Department arising either from the initial report received from the assisted living community or an independent source is subject to disclosure in accordance with applicable laws.

Authority: O.C.G.A. §§ 31-2-7, 31-2-8, 31-7-1 *et seq.*, 31-8-80 *et seq.* and 35-3-170 *et seq.* **History:** Original Rule entitled “Reports to the Department” adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.31 Deemed Status. The Department may accept the certification or accreditation of an assisted living community by an accreditation body or certifying authority recognized and approved by the Department provided that certification or accreditation constitutes compliance with standards that are substantially equivalent to these rules. Nothing herein shall prohibit any departmental inspection to determine compliance with licensure rules.

Authority: O.C.G.A. §§ 31-7-1 and 31-7-3(b). **History:** Original Rule entitled “Deemed Status” adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.32 Variance and Waivers.

- (1) The Department may, in its discretion, grant variances and waivers of specific rules upon application or petition filed on forms made available by the Department. The Department may establish conditions which must be met by the assisted living community in order to operate under the variance or waiver granted.

(a) **Variance.** A variance may be granted by the Department upon a showing by the applicant or petitioner that the particular rule or regulation that is the subject of the variance request should not be applied as written because strict application of the rule would cause undue hardship. The applicant or petitioner must also show that adequate standards affording protection for the health, safety, and care of the residents exist and will be met in lieu of the exact requirements of the rule or regulations in question. The Department may require additional documentation by the assisted living community to support its application for a variance or waiver.

(b) **Waiver.** The Department may dispense entirely with the enforcement of a rule or regulation by granting a waiver upon a showing by the applicant or petitioner that the purpose of the rule or regulation is met through equivalent standards affording equivalent protection for the health, safety, care, and rights of the residents.

(c) **Experimental Variance or Waiver.** The Department may grant variances and waivers to allow experimentation and demonstration of new and innovative approaches to delivery of services upon a showing by the applicant or petitioner that the intended protections afforded by the rule or regulation which is the subject of the request are met and that the innovative approach has the potential to improve service delivery without compromising health, safety, residents' rights, or other relevant standards.

- (2) The decision of the Department regarding either granting or denying the application of the governing body of the assisted living community for a waiver or variance is not subject to further administrative review. The governing body may file a petition for judicial review in the appropriate superior court.
- (3) Where the Department has denied the application for a waiver or variance in writing, the Department will not consider a subsequent application for the same waiver or variance as a new application unless the applicant includes new evidence of a substantial change in the circumstances which formed the basis for the initial request.

Authority: O.C.G.A. §§ 31-2-7, 31-2-8, 31-7-1 *et seq.*, 50-13-9.1 and 50-13-19. **History:** Original Rule entitled "Variance and Waivers" adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63.33 Enforcement of Licensing Requirements.

An assisted living community that fails to comply with licensing requirements contained in these rules, the Rules and Regulations for the Use of Proxy Caregivers, Chapter 111-8-100 and the Rules and Regulations for General Licensing and Enforcement Requirements, Chapter 111-8-25, is subject to civil and administrative actions brought by the Department to enforce licensing requirements as provided by law and rules. Such actions will be initiated in compliance with the Georgia Administrative Procedures Act, O.C.G.A. §50-13-1 *et seq.*, O.C.G.A. §31-2-11 and the Rules and Regulations for General Licensing and Enforcement Requirements, Chapter 111-8-25.

Authority: O.C.G.A. §§ 31-2-7, 31-2-8, 31-7-1 *et seq.*, 43-26-12 and 50-13-1 *et seq.* **History:** Original Rule entitled “Enforcement of Licensing Requirements” adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-63-.34 Severability.

In the event that any rule, sentence, clause or phrase of any of the rules and regulations may be construed by any court of competent jurisdiction to be invalid, illegal, unconstitutional, or otherwise unenforceable, such determination or adjudication shall in no manner affect the remaining rules or portions thereof. The remaining rules or portions thereof shall remain in full force and effect as if such rule or portions thereof so determined, declared or adjudicated invalid or unconstitutional were not originally part of these rules.

Authority: O.C.G.A. § 31-2-7, 31-2-8 and 31-7-1 *et seq.* **History:** Original Rule entitled “Severability” adopted. F. Dec. 13, 2012; eff. Jan. 2, 2012.

111-8-100-.01 Legal Authority. These rules are adopted and published pursuant to the Official Code of Georgia Annotated (O.C.G.A.) §§ 31-7-2.1 and 43-26-12.

Authority O.C.G.A. §§ 31-7-2.1 and 43-26-12. **History:** Original Rule entitled “Legal Authority” adopted. F. Jul. 18, 2011; eff. Aug 7, 2011.

111-8-100-.02 Title and Purpose. These rules, known as the Rules and Regulations for Proxy Caregivers Used in Licensed Healthcare Facilities, set forth the requirements for designated proxy caregivers performing health maintenance activities in connection with certain licensed healthcare facilities subject to regulation by the department.

Authority O.C.G.A. §§ 31-2-9, 31-7-2.1 and 43-26-12(a)(9). **History:** Original Rule entitled “Title and Purpose” adopted. F. Jul. 18, 2011; eff. Aug 7, 2011.

111-8-100-.03 Definitions. In these rules, unless the context otherwise requires, the terms set forth herein shall mean the following:

(a) "Administrative action" means the initiation of a contested case as defined in the Georgia Administrative Procedures Act (APA), O.C.G.A. § 50-13-2(2) against a licensed facility for violation of licensing requirements.

(b) "Client(s)" means a person or persons receiving services through the licensed facility. Clients include such terms as residents, consumers, patients and program participants.

(c) "Competency-based training" means training which is tied to an identified set of skills and knowledge and requires demonstration and documentation of an acceptable level of performance of a task or achievement of an outcome.

(d) "Complex wound care" means the specialized nursing care that is required for certain wounds. Typically, the following kinds of wounds require complex care: wounds in the lower extremity of diabetic patients, pressure ulcers, chronic venous ulcers, wounds following extensive necrotic processes caused by infections (Fournier's and other), and chronic wounds related to vasculitis and immunosuppressive therapy that have not healed using simple care.

(e) "Department" means the Department of Community Health, its agents and employees.

(f) "Health maintenance activities" means those limited activities that, but for a disability, a person could reasonably be expected to do for himself or herself. Such activities are typically taught by a registered professional nurse, but may be taught by an attending physician, advanced practice registered nurse, physician assistant, or directly to a patient and are part of ongoing care. Health maintenance activities are those activities that do not include complex care such as administration of intravenous medications, central line maintenance, and complex wound care; do not require complex observations or critical decisions; can be safely performed and have reasonably precise, unchanging directions; and have outcomes or results that are reasonably predictable. Health maintenance activities conducted pursuant to this paragraph shall not be considered the practice of nursing.

(g) "Individual with a disability" or "disabled individual" means an individual who has a physical or mental impairment that substantially limits one or more major life activities such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing and/or learning, and who meets the criteria for a disability under state or federal law.

(h) "Inspection" means any examination by the department or its representatives of a licensed healthcare facility, including but not necessarily limited to the premises, and staff, persons in care, and documents pertinent to initial and continued licensing so that the department may determine whether a facility is operating in compliance with licensing requirements. The term "inspection" includes any survey, complaint investigation, monitoring visit, or other inquiry conducted for the purpose of making a compliance determination with respect to licensing requirements.

(i) “Legally authorized representative” means the person legally authorized to act on behalf of the individual with a disability with respect to providing consent to medical treatment or procedures not prohibited by law which may be suggested, recommended, prescribed or directed by a duly licensed physician or as otherwise authorized by law. The representative is not authorized to act on behalf of the individual with a disability to provide consent until a medical determination has been made that the individual with a disability lacks decision-making capacity regarding medical treatment or the ability to communicate such decisions by any means.

(j) “Licensed healthcare professional” means an individual who is licensed and authorized under Georgia law to perform certain healthcare practices. The term includes physicians, advance practice registered nurses, physician’s assistants, registered nurses, pharmacists, physical, speech and occupational therapists who are functioning within their scopes of licensed practice. The term does not include licensed practical nurses, certified nursing assistants or medication aides.

(k) “Licensed healthcare facility” or “licensed facility” means any agency, institution, entity or person subject to regulation by the department under Chapters 7, 13, 22, 23, 44 of Title 31; paragraph (8) of subsection (d) of Code Section 31-2-4; Chapter 5 of Title 26; and Article 7 of Chapter 6 of Title 49 of the Official Code of Georgia Annotated, except hospitals, residential mental health facilities, nursing homes, intermediate care facilities for the mentally retarded, Medicare-certified home health agencies and hospices.

(l) “Licensed residential facility” means a licensed facility which serves as the home, either temporarily or permanently, of an individual with a disability. Such facilities are licensed as assisted living communities, personal care homes, community living arrangements, residential drug abuse treatment programs and traumatic brain injury facilities.

(m) “Proxy caregiver” means an unlicensed person who has been determined qualified to have the necessary knowledge and skills acquired through training by a licensed healthcare professional to perform documented health maintenance activities, including specialized procedures, for an individual with a disability who has delegated to the designated proxy caregiver the performance of such health maintenance activities through execution of a written informed consent by the individual with a disability or a person legally authorized to act on behalf of such individual with a disability.

(n) “Written plan of care” means the specific set of written instructions which have been determined necessary, usually by a registered professional nurse, to implement the written orders of the attending physician or an advanced practice registered nurse or physician assistant working under a nurse protocol agreement or job description respectively.

Authority O.C.G.A. §§ 31-7-2.2, 31-9-2 and 43-26-12(a)(9). . **History:** Original Rule entitled “Definitions” adopted. F. Jul. 18, 2011; eff. Aug 7, 2011.

111-8-100-.04 Use of Proxy Caregivers and Informed Consent

(1)Proxy Caregiving Permitted. Licensed facilities, may allow proxy caregivers to perform health maintenance activities for individuals with disabilities who are being served by or through the licensed facility, as authorized in these rules, provided that the individual with a disability or legally authorized representative has executed a written informed consent.

(2)Written Informed Consent. No licensed facility will permit a proxy caregiver to provide health maintenance activities by or through the licensed facility unless the individual with a disability, or the legally authorized representative has executed an informed consent. The written informed consent must contain the following information:

- (a)a definition of health maintenance activities as set forth in the law;
- (b)the actual health maintenance activities to be performed;
- (c)an explanation that such health maintenance activities are to be provided pursuant to the written orders of an attending physician, advance practice registered nurse or physician's assistant working under protocol or job description as further detailed in the written plan of care;
- (d)the name(s) of the proxy caregiver(s) who are being authorized to provide health maintenance activities;
- (e)a disclosure that Georgia law now allows licensed healthcare professionals to train unlicensed proxy caregivers to provide the specific health maintenance activities listed on the written plan of care;
- (f) an acknowledgement that proxy caregivers are not licensed healthcare professionals and do not have the same education and training as licensed healthcare professionals. Therefore, there may be additional health risks associated with receiving this care from proxy caregivers who may not recognize an important change in the individual's medical condition requiring assessment and/or treatment;
- (g)an acknowledgment that the individual with a disability, or the legally authorized representative consents and is willing to take such risks;
- (h)that the informed consent is conditioned upon the proxy caregiver(s) being determined by an appropriately qualified licensed healthcare professional to have the knowledge and skills necessary to perform safely the specific health maintenance activities listed on the consent;
- (i) a statement that the informed consent for any proxy caregiver designated to deliver health maintenance activities may be withdrawn orally or in writing by the individual with a disability or the legally authorized representative by informing the proxy caregiver and any licensed facility through which the proxy caregiver may be operating; and

(j) an authorization for such health maintenance activities to be provided which is signed and dated by the individual with a disability or the legally authorized representative.

(3)Proxy Caregivers Functioning Independently in Licensed Residential Facilities.

Where the licensed residential facility permits the individual with a disability or the legally authorized representative to hire a proxy caregiver directly to perform tasks that are appropriately classified as health maintenance activities, the licensed residential facility must do the following:

(a)Develop and enforce written policies and procedures which do not conflict with the requirements of the law and these rules, and which outline the following:

1. The scope of the health maintenance activities that proxy caregivers are permitted to perform;

2. The notification procedures that will be utilized when either the proxy caregiver observes a change in the condition of the individual with a disability which may require evaluation/treatment by a licensed healthcare professional, or there is a change in the care being provided through the licensed residential facility that might impact the performance of health maintenance activities; and

3. The safety and security precautions that will be employed in the licensed residential facility to protect clients being served from harm by proxy caregivers who are independent and not under the control of the facility.

(b)Maintain a copy of the written informed consent which meets the requirements of rule 111-8-100-.04(2) and appears to be properly executed by the individual with a disability or the legally authorized representative

(c)Maintain a copy of the written plan of care for the individual with a disability which has been developed by a licensed healthcare professional pursuant to written orders of an attending physician, or an advanced practice registered nurse or physician assistant working under a nurse protocol agreement or job description respectively.

(d)Determine that the written plan of care provided specifies the health maintenance activities to be performed, the frequency of training and evaluation for the proxy caregiver and the kinds of changes in the written plan of care that would necessitate additional training for the proxy caregiver.

(e)Maintain current documentation signed by a licensed healthcare professional which reflects that the proxy caregiver has been determined to have the knowledge and skills necessary to perform safely the required health maintenance activities for the individual client.

(f) Verify that there is a back-up proxy caregiver service plan which has been put in place for the individual with a disability which addresses at a minimum the following:

1. The notification procedures and contact information that will be utilized when the proxy caregiver and/or licensed facility staff observe a change in the condition of the individual with a disability which may require evaluation/treatment by a licensed healthcare professional;

2. The alternative resources to be used to provide needed health maintenance activities in the event that the proxy caregiver is not available for any reason; and

3. The notification procedures and contact information that will be utilized if staff members of the licensed facility become aware of a potentially unsafe situation involving the client and the proxy caregiver.

(g)Ensure that the proxy caregiver is familiar with emergency evacuation procedures.

(4)Licensed Facilities Delivering Services Through Proxy Caregivers. Where the licensed facility employs, contracts or refers proxy caregivers to deliver health maintenance activities to individuals with disabilities receiving services through the licensed facility, the licensed facility must do the following:

(a)Develop and enforce written policies and procedures, which do not conflict with the requirements of the law and these rules and which outline the following:

1. The scope of the health maintenance activities that proxy caregivers are permitted to perform;

2. The notification procedures that will be utilized when the proxy caregiver observes a change in the condition of the individual with a disability which may require evaluation/treatment by a licensed healthcare professional; and

3. The safety and security precautions that will be employed by the licensed facility to protect clients being served by the licensed facility from harm by proxy caregivers.

(b)Disclose to individuals with disabilities who are potential clients of the licensed facility or the legally authorized representative the following:

1. The manner in which proxy caregivers are used to deliver health maintenance activities and the general professional qualifications of the staff providing supervision to the proxy caregivers;

2. Whether there are additional charges for such proxy caregivers and the amount that would be charged;

3. The manner in which the licensed facility ensures that clients are permitted to designate and change proxy caregivers;

4. The qualifications of the licensed healthcare professionals who develop written plans of care for the clients and provide training; and

5. The frequency of competency-based skills determinations and the extent of trainings provided to proxy caregivers.

(c) Ensure that the individual with a disability or the legally authorized representative has executed a written informed consent which meets the requirements of rule 111-8-100-.04(2).

(d) Ensure that a written plan of care is developed for the individual with a disability by a licensed healthcare professional in accordance with the written orders of an attending physician, an advanced practice registered nurse or physician's assistant working under a nurse protocol agreement or job description respectively, and that such plan of care specifies the frequency of training and evaluation requirements for the proxy caregiver and when additional training will be required for new duties added to the written plan of care for which the proxy caregiver has not been previously trained. The licensed facility must either use the written plan of care form made available by the Department or another form containing all the required elements.

(e) Ensure that the written plan of care is implemented by appropriately trained proxy caregivers who have been specifically designated by the individual with a disability or the legally authorized representative.

(f) Maintain documentation of the specific training that was provided on the health maintenance activities that the proxy caregiver performs. The documentation must include a competency-based skills checklist completed by the licensed healthcare professional. The checklist must reflect that the proxy caregiver has personally demonstrated to the satisfaction of the licensed healthcare professional the necessary knowledge and skills to perform safely the specific health maintenance activities.

(g) Maintain supporting documentation reflecting that the employee or contractor serving as the proxy caregiver has the basic qualifications as represented, e.g. no findings of abuse, neglect or exploitation entered against the individual in the nurse aide registry, a satisfactory report of motor vehicle driving record where the proxy caregiver may be transporting clients and a satisfactory criminal records check where required by other rules applicable to the specific licensed facility.

(h) Maintain written evidence of satisfactory performances on initial and annual skills competency determinations utilizing skills competency checklists which have either been made available by the department or developed and completed by appropriately licensed healthcare professionals. The competency-based skills checklists must reflect a testing of the knowledge and observation of the skills associated with the completion of all of the discrete tasks necessary to do the specific health maintenance activity in accordance with accepted standards of care.

Authority O.C.G.A. §§ 31-7-2.2, 31-9-2 and 43-26-12(a)(9). **History:** Original Rule entitled "Use of Proxy Caregivers and Informed Consent" adopted. F. Jul. 18, 2011; eff. Aug 7, 2011.

111-8-100-.05 Training and Other Requirements for Proxy Caregivers

(1) Training Curricula. A licensed facility utilizing proxy caregivers must employ a written training curricula developed by appropriately licensed healthcare professionals which ensures that the proxy caregiver accurately demonstrates how to do the required health maintenance activities correctly and safely. At a minimum, the training curricula used for proxy caregivers must include the following:

(a) Learning objectives which relate specifically to the health maintenance activities to be performed;

(b) Content knowledge and skills that are required to accomplish the learning objectives;

(c) Learning activities that will be utilized to provide instruction on knowledge and skills required;

(d) The results of the Test of Functional Health Literacy (TOFHLA) used as an assessment tool to individualize necessary training for the specific skills if the caregiver does not have a high school diploma or a general equivalency degree (G.E.D);

(e) Satisfactory and independent completion of the required skills competency checklists relating to the specific health maintenance activities to be performed before an appropriately licensed healthcare professional;

(f) The use of skills competency checklist forms when made available by the department for the specific health maintenance activities to be performed or other skills checklist forms that include all of the competencies in the correct order as contained on the forms made available by the department and as required for the specific client ; and

(g) Satisfactory evidence of routine evaluations of continued skills competencies by an appropriately licensed healthcare professional, at least annually if not assessed more frequently as specified on the written plan of care.

(2) Licensed Facilities Providing Medication Assistance. A licensed facility may use proxy caregivers to provide assistance with managing medications for an individual with a disability unless the use of proxy caregivers is subsequently prohibited or modified by regulations applicable to a specific type of licensed facility adopted after the effective date of these rules. In the absence of more specific requirements, the licensed facility using proxy caregivers for medication assistance must meet the following conditions:

(a) The individual with a disability or the legally authorized representative has provided a written informed consent which meets the requirement of these rules;

(b) The medications and assistance being provided have been determined by an appropriately licensed healthcare professional to be health maintenance activities that may be safely performed by properly trained proxy caregivers; and

(c) The proxy caregiver has been trained in accordance with these rules and determined through completion of a skills competency checklist before an appropriately licensed healthcare professional to have the knowledge and skills necessary to perform the specific health maintenance activities in accordance with the written plan of care.

(3) Medication Assistance Curriculum. Where the licensed facility provides medication assistance through proxy caregivers, the licensed facility must maintain documentation reflecting that the proxy caregiver providing assistance with medications has received training with an established written curriculum developed by an appropriately licensed healthcare professional that includes all of the topics listed:

- (a) The licensed facility's medication policies and procedures;
- (b) How to read prescription labels including common abbreviations;
- (c) Providing the right medication to the right client at the right time in the right amount and the right way including how to measure various medications that the specific client is taking;
- (d) The importance of taking the medications as prescribed;
- (e) Recognition of side effects and adverse reactions for the specific medications;
- (f) Understanding the common classifications of medications, typical side effects and adverse reactions and medications which must never be administered by proxy caregivers;
- (g) Actions to take when concerns regarding medications are identified;
- (h) Infection control procedures;
- (i) Proper medication storage and disposal;
- (j) Proper documentation and record keeping that the proxy caregiver is required to complete using a Medication Assistance Record (MAR) and the role of reference documents such as package inserts and medication manuals; and
- (k) Information about medication errors, error-prone situations and strategies to prevent such medication errors and instruction on proper documentation and reporting of medication errors.

(4) The training on medication assistance must be provided by an appropriately licensed healthcare professional, e.g. registered professional nurse, advance practice registered nurse, physician's assistant, pharmacist or physician and must be individualized and supplemented as appropriate to meet the unique needs of the individual with a disability being served.

(5) Where a new medication is ordered, the licensed healthcare professional who completed the written plan of care must be contacted by phone to ensure that no additional training is

required prior to the caregiver providing assistance with the new medication. The date, time and the outcome of the phone call to the licensed healthcare professional must be documented in the individual's record by the caregiver making the call at the time that the call is made. Where additional training is required prior to the caregiver providing assistance, such training will be provided and documented by a licensed healthcare professional.

(6)Proxy caregivers providing medication assistance must be proficient in reading and following detailed written instructions in English, recording understandable written entries in the client's records, communicating effectively with the client and have achieved at least a minimum score of 75 on the Test of Functional Health Literacy for Adults (TOFHLA).

(7)Prohibited Assistance. The licensed facility providing medication management services must not train or permit proxy caregivers to provide the following assistance with medications:

(a)Mixing, compounding, converting, or calculating medication doses, except for measuring a prescribed amount of liquid medication, breaking a scored tablet, crushing a tablet or adding water or other liquid to laxatives and nutritional supplements when such substance preparations are being done in accordance with a specific written prescription;

(b)Preparing syringes for intravenous injection or the administration of medications intravenously;

(c)Administering any intravenous medications and the first dose of any subcutaneous or intramuscular injection;

(d)Interpreting a "PRN" (as needed) medication order when the order does not identify the resident behaviors or symptoms which would trigger the need for the medication and/or does not identify the appropriate dosing and is not specifically authorized on the written plan of care;

(e)Irrigating or debriding agents used in the treatment of skin conditions;

(f) Assisting in the administration of sample or over the counter medications where there is no written doctor's order providing amount and dosing instructions; and

(g)Assisting in the administration of any medication to a client without appropriate evidence of a written order signed by an appropriately licensed healthcare professional; and

(h)Performing any health maintenance activities where the licensed health care professional has determined that either the care required no longer meets the definition of health maintenance activities or the proxy caregiver has not demonstrated the knowledge and skill necessary to perform the health maintenance activities safely.

(8)Maintaining Records on Medication Assistance. Where the licensed facility manages medications for an individual with a disability, the licensed facility must maintain a daily Medication Assistance Record (MAR) for each person who receives assistance. At a minimum, the MAR must include the name of the specific person receiving assistance, any known allergies,

the name and telephone number of the individual's health care provider, the name, strength and specific directions for the medications being managed, and a chart for staff who provide assistance to record initials, time and date when medications are taken, refused or a medication error is identified (e.g. missed dosage). The staff providing the assistance must immediately update the MAR for each individual each time the medication is offered or taken.

(a) The licensed facility must make medication information concerning the descriptions of medication, dosing, side effects, adverse reactions and contraindications for each medication being administered to the individual with a disability immediately available for reference by proxy caregivers providing medication assistance. The licensed facility must utilize a properly indexed medication information notebook or folder which contains information about only the medications for which the caregivers are providing assistance.

(b) Proxy caregivers provided by the licensed facility who provide assistance with medications must document in the client's record any unusual reactions to the medications and provide such information to the individual with a disability, legally authorized representative, if any, and healthcare provider as appropriate.

(9) Medication Assistance Competency Assessments. The licensed facility must maintain documentation showing that the proxy caregivers have been trained and determined to have the knowledge and skills necessary to provide the assistance with medications by the specified licensed healthcare professional.

(a) The specified licensed healthcare professional must sign and date the skills competency checklist for the staff they are evaluating.

(b) Skills competency checklists for proxy caregivers assisting with medications must be promptly updated by a licensed healthcare professional whenever new medications are added for which such staff has not previously received training and at least annually.

(c) The licensed facility must not allow any proxy caregiver to assist with administration of specific medications unless the proxy caregiver has been trained and determined competent by a registered professional nurse, or an authorized advance practice registered nurse, a physician's assistant or physician to assist with the administration of medications in that classification.

(10) Competency Evaluations for Specialized Health Maintenance Activities. Where the health maintenance activity to be performed has multiple discrete tasks that must be performed in proper sequence to deliver safe care, the licensed healthcare professional must ensure that the skills competency checklist properly sequences all necessary tasks. The licensed healthcare professional must verify by direct observations and sign documentation that the proxy caregiver can complete all tasks required satisfactorily in proper sequence from memory without prompting or assistance of any kind. Competency to perform specialized health maintenance activities must be reevaluated whenever the health maintenance activities change, and on a regularly recurring schedule as determined appropriate by the licensed healthcare professional on the written plan of care. The schedule for such re-evaluations must take into consideration the nature of the health maintenance activities to be performed and the condition of the client. At a

minimum, such reevaluations by the licensed healthcare professional must occur no less frequently than annually.

Authority O.C.G.A. §§ 31-7-2.2 and 43-26-12(a)(9). **History:** Original Rule entitled “Training and Other Requirements for Proxy Caregivers” adopted. F. Jul. 18, 2011; eff. Aug 7, 2011.

111-8-100-.06 Variance and Waivers.

(1)The Department may, in its discretion, grant variances and waivers of specific rules upon application or petition filed on forms provided by the Department. The Department may establish conditions which must be met by the licensed facility in order to operate under the variance or waiver granted.

(a)Variance. A variance may be granted by the Department upon a showing by the applicant or petitioner that the particular rule or regulation that is the subject of the variance request should not be applied as written because strict application of the rule would cause undue hardship. The applicant or petitioner must also show that adequate standards affording protection for the health, safety, and care of the individuals with disabilities exist and will be met in lieu of the exact requirements of the rule or regulations in question.

(b) Waiver. The Department may dispense entirely with the enforcement of a rule or regulation by granting a waiver upon a showing by the applicant or petitioner that the purpose of the rule or regulation is met through equivalent standards affording equivalent protection for the health, safety, care, and rights of the individuals being served; and

(c)Experimental Variance or Waiver. The Department may grant variances and waivers to allow experimentation and demonstration of new and innovative approaches to delivery of services upon a showing by the applicant or petitioner that the intended protections afforded by the rule or regulation which is the subject of the request are met and that the innovative approach has the potential to improve service delivery without compromising health, safety, individuals' rights, or other relevant standards.

(2)The decision of the Department regarding either granting or denying the application of the governing body of the licensed facility for a waiver or variance is not subject to further administrative review. The governing body may file a petition for judicial review in the appropriate superior court.

(3)Where the Department has denied the application for a waiver or variance in writing, the Department will not consider a subsequent application for the same waiver or variance as a new application unless the applicant includes new evidence of a substantial change in the circumstances which formed the basis for the initial request.

Authority O.C.G.A. §§ 31-2-9, 31-7-2.1, 31-7-12, 50-13-9.1 and 50-13-19. **History:** Original Rule entitled “Variance and Waivers” adopted. F. Jul. 18, 2011; eff. Aug 7, 2011.

111-8-100-.07 Enforcement of Licensing Requirements.

A licensed facility which permits proxy caregivers to deliver health maintenance activities is subject to inspection by the Department to determine compliance with the requirements contained in the Rules and Regulations for Proxy Caregivers Used in Licensed Healthcare Facilities, Chapter 111-8-100 or other licensure regulations applicable to the specific licensed facility. A licensed facility which is determined not to be in compliance with these rules or other rules applicable to the licensed facility, is subject to civil and administrative actions brought by the Department to enforce licensing requirements as provided by law and rules. Such actions will be initiated in compliance with the Georgia Administrative Procedures Act, O.C.G.A. § 50-13-1 et seq., O.C.G.A. §31-2-11 and the Rules and Regulations for General Licensing and Enforcement Requirements, Chapter 111-8-25.

Authority O.C.G.A. §§ 31-7-2.1 and 31-7-2.2 and 50-13-1 et seq. **History:** Original Rule entitled “Enforcement of Licensing Requirements” adopted. F. Jul. 18, 2011; eff. Aug 7, 2011.

111-8-100-.08 Severability.

In the event that any rule, sentence, clause or phrase of any of the rules and regulations may be construed by any court of competent jurisdiction to be invalid, illegal, unconstitutional, or otherwise unenforceable, such determination or adjudication shall in no manner affect the remaining rules or portions thereof. The remaining rules or portions thereof shall remain in full force and effect as if such rule or portions thereof so determined, declared or adjudicated invalid or unconstitutional were not originally part of these rules.

Authority: O.C.G.A. § 31-7-2.1. **History:** Original Rule entitled “Severability” adopted. F. Jul. 18, 2011; eff. Aug 7, 2011.