

**RULES  
OF  
DEPARTMENT OF COMMUNITY HEALTH**

**CHAPTER 111-8  
HEALTHCARE FACILITY REGULATION**

**111-8-62  
RULES AND REGULATIONS FOR PERSONAL CARE HOMES**

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**111-8-62-.01 Authority.** The legal authority for this Chapter is the Official Code of Georgia Annotated, Chapters 2 and 7 of Title 31.

Authority: O.C.G.A. §§ 31-2-4, 31-2-7, 31-2-8, and 31-7-1 *et seq.*

**111-8-62-.02 Purposes.** The purposes of these rules and regulations are to establish the minimum standards for the operation of personal care homes which provide residential and personal services to adults who require varying degrees of supervision and care and to assure safe, humane and comfortable, supportive residential settings.

Authority: O.C.G.A. §§ 31-2-7, 31-2-8, 31-7-1, 31-7-2.1 and 31-7-12.3

**111-8-62-.03 Definitions.** In these rules, unless the context otherwise requires, the words, phrases and symbols 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, laundering, cleaning private living space, 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 personal care home, who may also serve as the on-site manager and responsible staff

person except during periods of his or her own absence.

(d) "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 or scooter; 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.

(e) "Applicant" means any of the following:

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 or 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.

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.

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

treat medical symptoms.

(h) "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 or prospective employee or employee has a criminal record as defined in these rules and applicable laws.

(i) "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.*

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

(k) "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.

(l) "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.

(m) "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.

(n) "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.

(o) "Governing Body" means the person or group of persons as defined in Georgia law who maintain and control the home and who are legally responsible for the operation of the home.

(p) "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 home is not authorized by law or regulations to provide.

(q) "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, such as skin breakdowns, for which the home has not provided proper care.

(r) "Law enforcement agency" means the Georgia Bureau of Investigation or a local law enforcement agency or a contractor approved by law enforcement authorities with authorization to conduct criminal history background checks through the Georgia Crime Information Center (GCIC).

(s) "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.

(t) "Licensed Residential Care Profile" means the form made available by the Department which the personal care home must use to inform the public about the services it provides.

(u) "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. or appropriately licensed and supervised nurse practitioners and physicians assistants.

(v) "Memory care services" means the additional watchful oversight systems, program, activities 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.

(w) "Memory care unit" means the specialized unit or home that either holds itself out as providing memory care services or provides personal services in secured surroundings.

(x) "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.

(y) "Nursing services" means those services which may be rendered by a person licensed pursuant to Articles 1 and 2 of Chapter 26 of Title 43 of the Official Code of Georgia Annotated.

(z) "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 the responsible staff person except during periods of his or her own absence.

(aa) "Owner" means any individual or any person affiliated with a corporation, partnership, or association with 10 percent or greater ownership interest in the facility providing care to persons under the license of the facility in this state and who:

1. purports to or exercises authority of the owner in a facility;  
or
2. applies to operate or operates a facility; or
3. maintains an office on the premises of a facility; or
4. resides at a facility; or
5. has direct access to persons receiving care at a 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 a facility.

(bb) "Permit" or "Regular Permit" means the authorization granted by the Department to the governing body to operate a

Personal Care Home.

(cc) "Personal Care Home", "home" or "facility" 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.

(dd) "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.

(ee) "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 and meets the requirements contained in the Rules and Regulations for Proxy Caregivers Used in Licensed Healthcare Facilities, Chapter 111-8-100.

(ff) "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 practices employed by the home 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.

(gg) "Plan of Correction" means the written plan prepared in response to cited rule violations which identify by date certain the specific actions that will be taken by the personal care home to

come into compliance with applicable rules.

(hh) "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. This written authorization may take the form of an advance directive.

(ii) "Resident" means any non-family adult receiving or requiring personal assistance and residing in a personal care home.

(jj) "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.

(kk) "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.

(ll) "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 medications and generally knows the times the medications are to be taken, and physical characteristics of medications to be taken.

(mm) "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 or scooter.

(nn) "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. § 31-2-9, if applicable.

Authority: O.C.G.A. §§ 31-2-7, 31-2-8, 31-2-9, 31-7-2.1, 31-7-3, 31-7-12, 31-7-12.2, 31-7-12.3, 31-7-250 *et seq.* and 31-8-80 *et seq.*

#### **111-8-62-.04 Applicability of Rules and Exemptions.**

(1) These rules apply to all personal care homes unless the facility is specifically exempted as provided in paragraph (2) of this rule.

(2) 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) Other facilities, homes or residences licensed by the Department which have not been classified as personal care homes, e.g. assisted living communities, hospices, traumatic brain injury facilities, drug abuse treatment facilities.

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

(e) Facilities licensed by the Department of Behavioral Health, Developmental Disabilities and Addictive Diseases.

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

(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.

(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. §§ 26-5-1, 31-2-4, 31-2-7, 31-7-1, 31-7-2, 31-7-12, 31-7-172 and 37-1-20(18).

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

(1) The governing body of each home must submit to the Department an application for a permit in the required format in order to be eligible to operate if the application is approved.

(2) 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.

(3) The application must truthfully and accurately disclose required information.

(4) Each application for a permit must be accompanied by a sketch, plat, photos or simple drawing of the home, and grounds with identification of all structures on the premises by the applicant. The visual depiction must show the property, windows, doors, room measurements, and bed placement for residents, family and/or staff and be accompanied by documentation of ownership

or lease agreement for the property on which the home will be operated.

(5) The name of the administrator or on-site manager, who will be working in the home, 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 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 must be disclosed in the application for a permit as well as the registered agent for service of process.

(7) Local zoning and other local requirements regarding the proper location and establishment of homes must be addressed by the applicant with the responsible local officials.

(8) The filing of an application for licensure constitutes a representation that the applicant is or will be in complete control of the home as of a specified date.

(9) No personal care home shall be operated and no residents admitted without such a permit which is current under these rules and regulations.

Authority: O.C.G.A. §§ 31-2-7, 31-2-9, 31-7-2.1, 31-7-3, 31-7-12 and 31-7-264.

#### **111-8-62-.06 Permits.**

(1) The governing body of each personal care home must obtain a valid permit from the Department prior to operating as a personal care home.

(2) The permit must be displayed in a conspicuous place on

the premises that is visible to residents and visitors.

(3) A licensed personal care home must not serve more residents than its approved licensed capacity

(4) A permit is no longer valid and must 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 is required for each home located on different premises where more than one home is operated under the same governing body.

(6) No personal care home is permitted to provide personal services to individuals living in spaces which are not located within the authorized space assigned to the licensed personal care home.

(7) A home licensed as a personal care home, but not specifically licensed as an assisted living community, must not provide assisted living care.

(8) A personal care home must not operate or allow another business to operate on the premises of the licensed home where the business intrudes on the residents' quiet enjoyment and use of the licensed home.

Authority: O.C.G.A. §§ 31-2-7, 31-7-1, 31-7-2.1, 31-7-3, 31-7-12 and 31-7-12.2.

#### **111-8-62-.07 Governing Body.**

(1) The governing body is responsible for providing the oversight necessary to ensure that the home operates in compliance with applicable requirements: Chapter 7 of Title 31 of the Official Code of Georgia Annotated, administrative rules and regulations of the Department of Community Health, Chapters 111-8-25, 111-8-62 and 111-8-100, and all other statutes, rules

and regulations.

(2) The governing body must ensure that the Department has current contact information consisting of name, e-mail address for departmental notifications to the home, physical addresses, and phone numbers for the governing body and the administrator or on-site manager of the home. The governing body must ensure that staff is held accountable for delivering any notices provided to the governing body at the listed addresses to the governing body.

(3) The governing body is responsible for implementing policies, procedures and practices in the home 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 home, including, personal services, memory care services/units and any other specialized services such as designated proxy caregivers.

(b) Admissions, discharges and immediate transfers which ensure that the home does not admit or retain residents who need more care than the home is authorized or capable of providing.

(c) Refunds when a resident is transferred or discharged.

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

(e) House rules and their enforcement.

(f) Protecting the rights of the residents as set forth in these rules;

(g) Medication management, procurement and the professional oversight provided for such services.

(h) 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.

(i) 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.

(j) Discipline procedures for handling conduct which is inconsistent with the policies of the home committed by staff.

(k) Emergency preparedness, drills and evacuation requirements.

(l) Quality assurance and peer review mechanisms to determine opportunities for improving care utilizing information acquired from reports and investigations of serious incidents, including resident and family feedback.

(m) The use of volunteers, who have unsupervised access to the residents and their orientation regarding resident's rights and basic safety precautions.

(n) The specific use of proxy caregivers allowed within the home and the oversight of proxy caregivers the home requires or provides in accordance with Georgia law, these rules and the rules for proxy caregivers, Chapter 111-8-100.

(o) The safety and security precautions that will be employed by the home to protect residents from harm by other residents, designated proxy caregivers and other individuals, not employed by the home who routinely come into the home.

(p) The staffing plan which takes into account the specific needs of the residents and also includes arrangements for staffing in the absence of regularly scheduled staff.

(4) The governing body must not permit any person who is a member of the governing body, administration or staff to serve as

the representative of a resident of the home.

(5) Where a member of the governing body, administration or staff serves as the representative payee of the resident, the home must use the funds received for the exclusive use and benefit and in the best interest of the resident and maintain necessary records to support such use.

(6) The governing body must ensure that staff accepts certified mail from the Department when sent to the licensed home.

Authority: O.C.G.A. §§ 31-2-7, 31-7-1, 31-7-2.1 and 31-7-12.

#### **111-8-62-.08 Administration.**

(1) For homes first licensed after the effective date of these rules, the home must have an administrator, who is at least 21 years of age and, has either

(a) an Associate's Degree or,

(b) a G.E.D. or a high school diploma and 2 years experience working in a licensed personal care home or other healthcare-related setting.

(2) The administrator or on-site manager of each personal care home must do the following:

(a) Ensure that the policies and procedures are effective and enforced to support the health and safety of the residents.

(b) 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.

(c) Investigate serious incidents involving residents which result in injuries or death in order to identify and implement

opportunities for improvement in care.

(d) Monitor and document staff performance to ensure that care and services are being delivered safely and in accordance with these rules.

(3) Personnel must be assigned duties consistent with their positions, training, experience, and the requirements of Rule 111-8-62-.09.

(4) The administrator must develop and utilize a comprehensive disaster preparedness plan for the home for staff and residents to follow in case of fire, explosion, or other emergency, including interruption of electrical power supply, gas-heating supply and water supply. The plan must be completed in a format acceptable to the Department and address obtaining emergency transportation, sheltering in place, loss of power and water, evacuating and transporting the residents away from the home, and identifying alternative living arrangements.

(a) 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.

(b) The emergency procedures must answer the questions of "who, what, when, where, and how" the home will be ready to act effectively and efficiently in an emergency situation.

(5) Each home must have a telephone which is maintained in working order at all times and is accessible to the residents.

(6) The home must provide timely notification of the relocation address to the residents, their family contacts and representatives, if any, and the Department whenever the home 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.

Authority: O.C.G.A. §§ 31-2-7, 31-7-1, 31-7-2.1, 31-7-3 and 31-7-12.2

### **111-8-62-.09 Workforce Qualifications and Training.**

(1) **Age Requirements.** The on-site manager and all other direct-care supervisory staff working in a personal care home must be at least 21 years of age. Non-supervisory staff providing hands-on care to the residents must be at least 18 years of age.

(2) The administrator or on-site manager must be responsible for ensuring that any person working in the home as an employee, under contract or otherwise, receives work-related training within the first sixty days of employment. Such training must include, at a minimum, the following:

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

(b) Evidence of 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' rights.

(f) 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.*; and

(g) General infection control principles including the importance of hand hygiene in all settings and attendance policies

when ill.

(3) At least one staff person having completed the minimum training requirements of Rule 111-8-62-.09(2)(a) through (f) above must be present in the home at all times resident(s) are present in the home. Where the home provides a secure unit, the unit itself must have at least one person present in the unit who has completed all the required training.

(4) All persons, including the administrator or on-site manager, who offer direct care to the residents, must satisfactorily complete continuing education each year, in courses, relevant to their job duties, including, but not limited to, appropriate medication assistance, 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 directors and employees involved with the provision of personal services to the residents must have at least sixteen (16) hours of training per year.

(6) 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 assistant within twelve months prior to their employment with the home which examination was 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 must be conducted by a licensed physician, nurse practitioner or physician assistant 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 must be kept in the staff person's file accessible at the licensed home or within one hour of the request.

**(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 must submit a fingerprint records check application so as to permit the Department to obtain a criminal history background check.

(a) 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.

(b) A personal care home license must not be issued, and any license issued must be revoked where it has been determined that the owner has a criminal record as defined in O.C.G.A. § 31-2-9 or specific rules passed pursuant to the statute.

(c) An owner with a valid personal care home license who acquires a criminal record for any of the crimes as defined in O.C.G.A. § 31-2-9 or rules passed pursuant to the statute subsequent to the effective date of these rules must disclose the criminal record to the Department.

(d) If at any time the Department has reason to believe an owner holding a license has a criminal record where mitigation has not been determined as described in O.C.G.A. §31-2-9 or rules passed pursuant to the statute, the Department shall initiate a revocation action.

**(8) Criminal History Background Checks for Directors, Administrators and Onsite Managers Required.** The home must obtain a satisfactory fingerprint records check determination for the person being considered for employment as a director, administrator or onsite manager. The records check determination must be done in compliance with the provisions of O.C.G.A. §31-7-250 *et seq.* or specific rules passed pursuant to the statute.

(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 must not serve as a director of a licensed personal care home 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.

(c) The director, administrator or onsite manager of the home must immediately submit to an additional fingerprint records check when the Department provides the director, administrator or onsite manager with written notice of any one of the following:

1. There is reason to believe that director, administrator or onsite manager 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.

2. The fingerprint record check is required to confirm identification for record search purposes.

3. The fingerprint record check is required in connection with an abuse, neglect or exploitation investigation.

**(9) Criminal History Background Checks for Employees Required.** Prior to serving as an employee other than a director of a licensed personal care home, the home 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.

(a) A person with an unsatisfactory criminal history background check determination must not serve as an employee of a licensed personal care home if it is determined that such person has a criminal record, 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 (3) years preceding the application

for employment, the personal care home must attempt to obtain a criminal history background check from the local law enforcement agency of the applicant's previous state of employment.

(c) A personal care home must require its employee to immediately submit to a fingerprint records check when the Department provides the personal care home with written notice of any one of the following:

1. There is reason to believe that the employee 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.

2. The fingerprint record check is required to confirm identification for record search purposes.

3. The fingerprint record check is required in connection with an abuse, neglect or exploitation investigation.

(10) The administrator or on-site manager must obtain and verify a five- year employment history when possible for each employee and maintain documentation in the employee's file. If the potential employee has no prior employment history, then the home must retain documentation of a satisfactory personal reference check.

(11) Personnel file(s) for each employee must be maintained either in the home or available for inspection by departmental staff within one hour of request or prior to the end of the on-site survey and for three years following the employee's departure or discharge. These files must include all of the following:

(a) Evidence of a satisfactory fingerprint record check determination or a satisfactory criminal history background check determination.

(b) Report of a physical examination completed by a licensed physician, nurse practitioner or physician assistant.

(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, if previously employed, including 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. personal references, 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.

(f) Written evidence of satisfactory initial and annual work performance reviews, which can take the form of skills competency checklists, for unlicensed staff providing hands-on personal care. Where the unlicensed staff performs specialized tasks, such as health maintenance activities, 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 applicable rules and accepted health and safety standards.

(12) Where the home permits a resident to hire his or her own companion-sitter, proxy caregiver to perform health maintenance activities or aide of any sort, the home 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,

Authority: O.C.G.A. §§ 31-2-7, 31-2-9, 31-7-2.1 31-7-12 and 31-7-250 *et seq.*

### **111-8-62-.10 Staffing.**

(1) The home 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 home 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, or private sitters cannot be counted in the staff ratios for the home.

(b) At least one administrator, on-site manager, or a responsible staff person must be on the premises 24 hours per day and available to respond to residents needs.

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

(2) All staff, including the administrator or on-site manager, who offer direct care to the residents on behalf of the home, 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.

(3) For purposes of these regulations, a resident must not be considered a staff person.

(4) All homes 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.

(5) The home must retain the completed staff schedules for a

minimum of one year.

(6) Sufficient staff time must be provided by the home such that each resident:

(a) Receives treatments, medications and diet as prescribed.

(b) Receives proper care to prevent pressure 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, oral care.

(h) Is given assistance with transferring when needed.

(7) The administrator, on-site manager, or staff person must not be under the influence of alcohol or other controlled substances while engaged in any work-related activity on behalf of the home.

(8) A home licensed to serve more than 24 residents must ensure that staff wear employee identification badges which are readily visible.

Authority: O.C.G.A. §§ 31-2-7, 31-7-1, 31-7-2.1, 31-7-12 and 31-7-12.2.

### **111-8-62-.11 Home Accountability and Inspections.**

(1) The home and its records must 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) Where the Department identifies rule violations, the home will receive a written report of inspection. Within 10 days of receipt of the written report of inspection, the home must develop a written plan for correcting any rule violations identified. The plan of correction must identify the specific actions the home will take promptly to come into compliance with each rule for which a deficient practice was identified and file the plan with the Department as directed.

(3) If the home disagrees with the facts and conclusions stated in the inspection report, the home may include with its plan of correction a written statement explaining its disagreement and any evidence supporting the disagreement to the Department. Where the Department concurs with the written statement of disagreement, the Department will issue a revised inspection report to the home.

(4) A copy of the most recent inspection report and plan of correction must be displayed in the home in a location that is routinely used by the home to communicate information to residents and visitors. Additionally, when the Department develops a web site for receiving plans of correction electronically and notifies the home on the inspection report of the internet address, the home must file its plan of correction electronically on the Department's web site within 10 days of receipt of the written report of inspection or submit it in writing to the Department within 10 days.

(5) The home must assess the effectiveness of its plan of correction in correcting the deficient practice and modify the plan of correction as necessary to ensure compliance with the rules.

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

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

(9) A personal care home which is not licensed as an assisted living community must not use the term “assisted living” in its name or marketing materials.

Authority: O.C.G.A. §§ 31-2-7, 31-7-1, 31-7-3, 31-7-2.1, 31-7-12, 31-7-12.2 and 31-7-12.3.

#### **111-8-62-.12 Home Design Requirements.**

(1) A home must be constructed, arranged, and maintained to provide adequately for all of the following:

(a) Health, safety, and well-being of the residents.

(b) Independence, privacy and dignity of the residents.

(c) Safe access of all residents with varying degrees of functional impairments to living, dining and activity areas within the home.

(2) A currently licensed home which undergoes major structural renovation or one that is first licensed after the effective date of these rules must be designed and constructed in compliance with applicable state and local building and fire codes.

(3) Where the home intends to make changes to the home which would result in a change to the floor sketch from the one that was submitted at the time of initial licensing or certificate of need review, the home must have such proposed changes approved by the Department.

(4) Any renovations to the home which put the home out of compliance with these rules may subject the home to revocation of its license.

(5) **Common Areas.** The home must provide common living areas for the use of the residents.

(a) Separate and distinct sleeping and living areas must be provided which allow for necessary supervision and assistance by staff and are conveniently located within easy walking distance of each resident's private living space (room), available for the residents' informal use at any time and do not require any resident to leave the building to use.

(b) Living rooms must be provided which are large enough to accommodate the residents without crowding. The rooms must be comfortably and attractively furnished, well heated, well lighted, ventilated and clean.

(c) The home must have handrails, grab bars, doorways and corridors which accommodate permitted mobility devices, such as walkers, motorized scooters, wheel chairs and crutches or canes as the residents require for their safety and allow the residents to move about the home freely.

(d) The home must provide an area for use by residents and visitors which affords privacy.

(e) The home must place at least one current calendar and working clock in the common living area.

(f) The home must provide a comfortable dining area which is properly equipped and adequate in size for the number of

residents being served.

(g) The home must provide a means of locked storage for any resident's valuables or personal belongings, upon request.

(h) No living room, dining room, hallway, and any other room not ordinarily used for sleeping is permitted to be used for sleeping by residents, family, staff or renters.

(i) A home must provide laundering facilities on the premises for the residents' personal laundry that prevents the cross-contamination of clean and dirty laundry.

(6) **Bedrooms or Private Living Spaces.** The following minimum standards for resident bedrooms or private living spaces must be met:

(a) Bedrooms or private living spaces must 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. However, licensed personal care homes approved prior to or on February 6, 1981 to operate with bedrooms or private living spaces with a minimum of 70 square feet of usable floor space per resident which have continuously operated since that date may continue to use the minimum 70 square feet standard. Where a home 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) There shall be no more than four residents per bedroom or private living space unless the home is presently permitted to serve more than four residents per bedroom or private living space and no change in the ownership, location or licensure status of the home occurs.

(c) Each bedroom or private living space must have at least one window opening through an exterior wall of the home. Bedrooms or private living spaces must be well ventilated and

maintained at a comfortable temperature.

(d) If the residents specifically choose in writing to share a private bedroom or living space with another resident of the home, then the residents must be permitted to share the room, subject to the usable square feet requirement and the limitation that no more than four residents may share any bedroom or private living space.

(e) Bedrooms or private living spaces for residents must be separated from halls, corridors and other rooms by floor to ceiling walls.

(f) The floor plan of the home must be such that no person other than the residents assigned to a bedroom or private living space should pass through that residents' bedroom or private living space in order to reach another room.

(g) 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 administrator or on-site manager must be provided with keys to assure easy entry and exit.

(h) 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 be provided with two useful means of egress. Control of dampness must be assured.

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

(7) **Bathroom Facilities.** The following minimum standards apply to bathroom facilities:

(a) At least one functional toilet and lavatory must be

provided for each four residents and at least one bathing or showering facility must be provided for each eight residents living in a home.

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

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

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

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

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

(g) A home serving a person dependent upon a wheelchair or scooter for mobility must have at least one bathroom that permits the resident to use all bathroom fixtures easily and independently where able.

(8) **Interior Design and Construction.** The home must be designed and built to provide for the following:

(a) 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.

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

(c) All areas of the home, 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.

Authority: O.C.G.A. §§ 31-2-7, 31-7-1, 31-7-2.1 and 31-7-12.

### **111-8-62-.13 Physical Plant Health and Safety Standards.**

(1) Each home must be in compliance with fire and safety rules promulgated by the Office of the Safety Fire Commissioner for the personal care homes it regulates.

(2) Each home must be in compliance with applicable local ordinances that specifically address fire safety in homes of that size and function. Private quarters must 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 must be maintained in a safe and operating condition. The home must provide functioning light bulbs for light fixtures.

(b) Cooking appliances must be suitably installed in accordance with approved safety practices. Where metal hoods or canopies are provided, they must be equipped with filters which must be maintained in an efficient condition and kept clean at all times.

(c) 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 home.

(d) Fire screens and protective devices must 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, must initiate an alarm which is audible in the sleeping rooms.

(f) Each home must have at least one charged 5 lb. multipurpose ABC fire extinguisher on each occupied floor and in the basement. These extinguishers must be checked annually to assure they remain in operable condition.

(g) Each home must have a working doorbell or doorknocker which is audible to staff inside at all times.

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

(3) The electrical service of the home must be inspected by a licensed electrician or local code enforcement official 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 must be submitted to the Department as a part of the application. 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 home or there is a request for a change in capacity or there is reason to believe that a risk to residents exists.

(4) Where the Department has reason to believe, based on the number of residents requiring assistance with ambulation and staffing patterns that the home 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 fire safety officials, the Department may either require the home to conduct an immediate fire safety drill or make a referral for a new compliance determination to responsible fire safety officials. The Department may also require a repeat fire safety inspection where substantial renovations or repairs have been made to the home.

(5) Water and sewage systems must meet applicable federal, state, and local standards and/or regulations.

(6) Floors, walls, and ceilings must be kept clean and in good

repair.

(7) Kitchen and bathroom areas must be kept clean and sanitized, at least once daily with disinfectant and more often as needed to insure cleanliness and sanitation.

(8) The storage and disposal of bio-medical and hazardous wastes must comply with applicable federal, state, and local rules and/or standards.

(9) Solid waste which is not disposed of by mechanical means must be stored in vermin-proof, leak-proof, nonabsorbent containers with closefitting covers until removed. Waste must be removed from the kitchen at least daily and from the premises at least weekly.

(10) An insect, rodent or pest control program must be maintained and conducted in a manner which continually protects the health of residents.

(11) Poisons, caustics, and other dangerous materials must be stored and safeguarded in areas away from residents, food preparation and food storage areas, and medication storage areas.

(12) The home must have an adequate hot water system that supplies heated water, comfortable to the touch but not exceeding 120 degrees Fahrenheit (F.) to the residents for their usage.

(13) Entrances and exits, sidewalks, yards and escape routes must be maintained free of any hazards such as refuse, equipment, unsafe furniture, debris or any other impediments. Ice and snow must be cleared from the home's entrances, exits and walkways.

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

(15) The exterior of the home must be properly maintained to remain safe and in good repair.

(16) The following evacuation requirements must be met:

(a) Residents who need assistance with ambulation must be assigned bedrooms which have a ground-level exit to the outside or to rooms above ground level which have exits with easily negotiable ramps or easily accessible elevators.

(b) There must be an established procedure and mechanism for alerting and caring for residents in case of emergencies and evacuating them to safety. This procedure must include instructions and evacuation plans posted on each floor of a home. Each sleeping room must have a secondary exit. This secondary exit may be a door or a window usable for escape. A plan showing these routes of escape must be posted in the home on each floor.

(c) A home serving person(s) dependent upon wheelchairs or scooters for mobility must provide at least two exits from the home, remote from each other, that are accessible to these persons.

Authority: O.C.G.A. §§ 31-2-7, 31-7-1, 31-7-2.1 and 31-7-12.

#### **111-8-62-.14 Furnishings and Fixtures.**

(1) Furnishings of the home in the living room, bedrooms and dining room must be maintained in good condition, intact, and functional.

(2) Furnishings and housekeeping standards must be such that a home presents a clean and orderly appearance.

(3) Resident bedroom furnishings must include all of the following:

(a) An adequate closet or wardrobe.

(b) Working 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 or private living space.

(d) A mirror appropriate for grooming unless the resident or resident's representative specifically requests to have it removed;

(e) An individual bed 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 home must provide an extra long mattress upon request. 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.

(f) Bedding for each resident which includes two sheets, a pillow, a pillow case, a minimum of one blanket and bedspread. A home must maintain a linen supply for not less than twice the bed capacity where the residents do not choose to provide their own linens. Where the residents choose to provide their own linens, the home must maintain an adequate supply of spare linens on hand to accommodate the needs of the residents. A home must change and launder bed linens for each resident at least weekly or more often if soiled.

(4) Provision must 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. §§ 31-2-7, 31-7-1, 31-7-2.1 and 31-7-12.

#### **111-8-62-.15 Admission.**

(1) Criteria for admission and retention of residents in a home are as follows:

(a) Persons admitted to a personal care home must be at least 18 years of age.

(b) The home is permitted to admit and retain only ambulatory residents who are capable of self-preservation with minimal assistance, i.e. staff may assist the resident in transferring from a sitting or reclining position and provide verbal directions to residents who are able to self-propel to the nearest exit.

(d) The home must not admit, or retain persons who require the use of physical or chemical restraints, isolation, or confinement for behavioral control.

(e) No home is permitted to admit residents who either require continuous medical services or continuous nursing care and treatment.

(f) Medical, nursing, health or therapeutic services required on a periodic basis, or for short-term illness, must not be provided as services of the home. When such services are required, they must be purchased by the resident or the resident's representative or legal surrogate, if any, from appropriately licensed providers managed independently from the home. The home may assist in arrangement for such services, but not provision of those services.

(2) No home is permitted to admit or retain a resident who needs care beyond which the home is permitted to provide.

(3) The administrator or on-site manager of a home must 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 must obtain a report of 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 using the specific report of physical examination form made available by the Department on its website to assess whether the home can meet the applicant's needs. Where a home admits a resident without the required physical examination pursuant to a specific request for an emergency placement made by a governmental

agency responsible for adult protective service, local law enforcement or a case manager, the home must retain documentation of the need for the emergency placement and obtain a copy of a physical examination within 14 days following the emergency admission. The required report of physical examination form must be completed in its entirety.

Authority: O.C.G.A. §§ 31-2-7, 31-7-1, 31-7-2.1 and 31-7-12.

#### **111-8-62-.16 Admission Agreement.**

(1) A written admission agreement must be entered into between the governing body and the resident. Such agreement must 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 must be informed, in writing, at least 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 must be available either as a basic service or on a reimbursement basis. Provision must also be made for access to emergency transportation at all times.

(f) A statement of the home's refund policy including but not limited to when a resident decides not to move into the home, dies, is transferred or discharged.

(g) A statement that a resident may not perform services for the home.

(h) A copy of the house rules, which must be in writing and also posted in the home. 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, 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) For residents first admitted after the effective date of these rules, a statement disclosing whether the home permits the resident to hire independent proxy caregivers, sitters, or requires the purchase of such services from the home or approved providers.

(j) For residents first admitted after the effective date of these rules, the admission agreement must disclose how and by what level of staff medications are handled in the home. The agreement must also specify who is responsible for initial acquisition, refilling of prescribed medications and whether unit or multi-dose packaging of medications is required.

(k) An explanation of how and when residents must be discharged or transferred from the home.

(l) For residents first admitted after the effective date of these rules, an explanation of how social media, photos of residents and other media involving residents are handled.

(2) Each resident, and representative, where applicable, prior to the execution of the admissions agreement, must 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 must take special steps to assure communication of its contents to the resident.

(3) The resident and representative or legal surrogate, if any, must each be given a signed copy of the agreement and 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 home.

Authority: O.C.G.A. §§ 31-2-7, 31-7-1, 31-7-2.1 and 31-7-12.

#### **111-8-62-.17 Services.**

(1) Personal assistance must be given to those residents who are unable to keep themselves neat and clean.

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

(3) Each home must provide books, newspapers, and games for leisure time activities. Each home must 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.

(4) Each home must have at least one operable, non-pay telephone which is accessible at all times for emergency use by staff. Residents must 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.

(5) The daily living routine of the home must 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.

(6) A home must not restrict a resident's free access to the common areas of the home unless the resident is living in a

specialized memory care unit. If the resident is residing in a specialized memory care unit, unrestricted access to the common areas contained within the memory care unit must be provided to the resident.

(7) A home must not lock the resident into or out of the resident's bedroom or private living space.

**(8) Resident Needs Assessment.** The home must complete an assessment of the resident at the time of admission and update as changes occur 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.

**(9) Written Care Plan.** Utilizing the information acquired during the admission process and the move-in adjustment period, a home which provides proxy caregivers or memory care 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 resident and family involvement in the development of the plan when appropriate.

(g) Evidence of the care plan being updated at least annually and more frequently where the needs of the resident change substantially.

Authority: O.C.G.A. §§ 31-2-7, 31-7-1, 31-7-2.1 and 31-7-12.

### **111-8-62-.18 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 home including what actions, as specified in rule 111-8-62-.30 are to be taken if a resident wanders away (elopes) from the home.

(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 home 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 operation must be posted on the outside of the door to allow individuals' access to the unit. However, if the unit is a whole home, 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) A home serving residents who are at risk of eloping from the premises must retain on file at the home current pictures of residents who are at risk of eloping.

Authority: O.C.G.A. §§ 31-2-7, 31-7-1, 31-7-2.1 and 31-7-12.

**111-8-62-.19 Additional Requirements for Specialized Memory Care Units or Homes.**

(1) A home must meet the additional requirements contained in rule 111-8-62-.19 where the home serves persons with probable diagnoses of Alzheimer's Disease or other dementia and does any of the following:

(a) Provides additional or specialized care in locked units to such residents.

(b) Holds itself out as providing additional or specialized care to such residents.

(c) Charges rates in excess of that charged other residents because of the cognitive deficits of such residents which may place them at risk of eloping.

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

(a) A statement of philosophy and mission.

(b) How the services of the special care unit are different from services provided in the rest of the personal care home.

(c) Staffing, including job titles of staff who work in the unit, staff training and continuing education requirements.

(d) Admission procedures, including screening criteria.

(e) 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.

(f) Staffing patterns, maintained within the unit, including the ratio of direct care staff to resident for a 24-hour cycle.

(g) A description of the physical environment including safety and security features.

(h) A description of activities, including frequency and type, how the activities meet the needs of residents with dementia.

(i) The program's fee or fee structure for all services provided by the unit or home.

(j) Discharge criteria and procedures;

(k) The procedures that will be utilized for handling emergency situations.

(l) The involvement of the unit with families and family support programs.

**(3) Disclosure of Description.** A personal care home with an Alzheimer's/dementia special care unit must disclose the written description of the special care unit to:

(a) Any person upon request.

(b) The family or resident's representative before admission of the resident to the Memory Care Unit or program.

**(4) 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 a home-like environment which includes the following:

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

(b) Secured outdoor spaces and walkways which are wheel chair accessible and allow residents to ambulate safely but prevent undetected egress.

(c) 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.

(d) Adequate and even lighting which minimizes glare and shadows.

(e) 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 four residents.

(f) Individually identified entrances to residents' rooms to assist residents in readily identifying their own personal spaces.

(g) An effective automated device or system to alert staff to individuals entering or leaving the building in an unauthorized manner. A home 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 home. If the exit door is not always staffed, then the home must have a system that activates an automated alert when the door is not attended;

(h) A 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

(i) A unit or home 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 home.

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

(a) Medications for residents living in the memory care unit must be provided to the residents by either or both of 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.
2. A proxy caregiver employed by the home in compliance with the Rules and Regulations for Proxy Caregivers, Chapter 111-8-100.

(b) 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 within the unit to meet the needs of the residents.

(c) 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-.09:

1. The home's philosophy related to the care of residents with dementia in the unit.
2. The home's policies and procedures related to care in the unit and the staff's particular responsibilities including wandering and egress control.
3. An introduction to common behavior problems characteristic of residents residing in the unit and appropriate behavior management techniques.

**(6) Initial Staff Training.** Within the first six months of

employment, staff assigned to the unit must receive training in the following topics:

(a) 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.

(b) Common behavior problems and appropriate behavior management techniques.

(c) Communication skills that facilitate better resident-staff relations.

(d) Positive therapeutic interventions and activities such as exercise, sensory stimulation, activities of daily living skills.

(e) The role of the family in caring for residents with dementia, as well as the support needed by the family of these residents.

(f) Environmental modifications that can avoid problematic behavior and create a more therapeutic environment.

(g) 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.

(h) New developments in diagnosis and therapy that impact the approach to caring for the residents in the special unit.

(i) Recognizing physical or cognitive changes in the resident that warrant seeking medical attention.

(k) Maintaining the safety of residents with dementia.

**(7) Special Admission Requirements for Unit Placement.**

Residents must have a Report of Physical Examination completed by a licensed physician, nurse practitioner or physician's assistant

within 30 days prior to admission to the home or unit 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 which 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.

**(8) Post-Admission Assessment.** The home must 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.

**(9) Individual Service Plans.** The post-admission assessment must be used to develop the resident's individual service plan within 14 days of admission. The service plan must 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 must sign the service plan and the service plan must 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 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 expressed preferences regarding care, activities and interests.

(c) Specific behaviors to be addressed with interventions to be used.

(d) Names of staff primarily responsible for implementing the

service plan.

(e) Evidence of family involvement in the development of the plan when appropriate.

(f) Evidence of the service plan being updated at least quarterly or more frequently if the needs of resident change substantially.

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

(a) Gross motor activities; e.g. exercise, dancing, gardening, cooking, other outdoor activities.

(b) Self-care activities; e.g. dressing, personal hygiene/grooming;

(c) Social activities; e.g. games, music, crafts.

(d) Sensory enhancement activities, e.g. distinguishing pictures and picture books, reminiscing and scent and tactile stimulation.

(11) No licensed personal care home may provide or 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-.19.

Authority: O.C.G.A. §§ 31-2-7, 31-7-1, 31-7-2, 31-7-2.1, 31-7-12, 31-8-180 *et seq.* and 43-26-32.

## **111-8-62-.20 Medications.**

(1) **Self-Administration of Medications.** Residents who have the capacity to self-administer 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.** 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) Staff providing such assistance or supervision may perform the following:

1. Take the medication, in its previously dispensed, properly labeled container, from where it is stored, and bring the medication to the resident.

2. Read the label, open the container, remove a prescribed amount of medication from the container, and close the container, in the presence of the resident.

3. Place an oral dosage in the resident's hand or in another container where the resident requests assistance.

4. Apply topical medications.

5. Assist with self-administration of drops, inhalers, nasal sprays and patches.

6. Return the medication container to proper secured storage.

7. Assist 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) Basic Medication Training for Staff Assisting with Self-Administration.** The home must provide and document medication training for the unlicensed staff that 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 home'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.

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

**(4) Medication Skills Competency Determinations.**

Unlicensed staff in homes providing assistance with or supervision of self-administered medications must demonstrate to a qualified supervisor when hired and at least, annually thereafter, the necessary skills to perform the medication tasks assigned competently.

**(5) Maintaining Records on Medication Assistance and Administration.** Where the home either provides assistance with, or supervision of self-administered medications or health maintenance activities involving medications to residents, the home must maintain a daily Medication Assistance Record (MAR) for each resident receiving such service.

(a) 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 a summary of severe 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).

(b) The staff providing the assistance or administration of medications must update the MAR each time the medication is offered or taken.

(c) The home 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.

(d) Staff 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.

(e) Refills of prescribed medications must be obtained timely so that there is no interruption in the routine dosing. Where the home 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, advance practice registered nurse or physician assistant indicates that the medication change must be made immediately. In homes, where unit or multi-dose packaging is not available for immediate changes in medications, unit or multi-dose packaging of the medication must be obtained when the prescription is refilled.

**(6) Orders Required for All Medications.** A home must not allow its staff to assist with, provide supervision of self-administered medications, including over-the-counter medications, unless there is a physician, advance practice registered nurse or physician assistant's order or individualized prescription bottle, specifying clear instructions for its use on file for the resident.

**(7) Timely Management of Medication Procurement.** The home 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 home must notify the physician of the unavailability of the prescription and request direction.

**(8) Storage of Medications.**

(a) The home is accountable for having an effective system to manage the medications it receives including storing medications under lock and key, or other secure system to prevent unauthorized access, 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, advance practice registered nurse or physician assistant, or when

closely attended by a staff member.

(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 for the resident's locked storage container and room must be available to the resident and the administrator, on-site manager or designated staff.

(c) Medications must be kept in original containers with original labels intact.

(d) A home may stock over-the-counter medications such as aspirin or acetaminophen for the convenience of residents who have PRN (as needed) orders for the specific medication and dosage. However, where the resident takes an over-the-counter medication daily as prescribed in a written order by a licensed physician, nurse practitioner or physician's assistant, such as vitamins or low-dose aspirins, the resident must have an individual bottle of the prescribed medication that is kept for the resident's individual usage.

(e) Unused or expired medications must be properly disposed of 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, 31-7-2.1, 31-7-1 and 31-7-12.

#### **111-8-62-.21 Nutrition.**

(1) A minimum of three regularly scheduled, well-balanced, meals must be provided seven days a week. There must be no more than 14 hours elapsing between the scheduled evening and morning meals. Meals must meet the general requirements for nutrition currently found in the Recommended Daily Diet Allowances, Food and Nutrition Board, National Academy of Sciences. Meals must be of sufficient quantity, proper form, consistency and temperature. Food for at least one nutritious

snack shall be available and offered each mid-afternoon and evening.

(2) Food received or used in a personal care home must be from satisfactory sources and must be clean, wholesome, free from spoilage, adulteration, and misbranding, and safe for human consumption.

(3) **Properly Furnished Food Areas.** A home must have a properly equipped kitchen with appropriate cabinets, drawers, holders and shelves or racks for storage of necessary equipment and utensils to prepare meals safely unless the home has arranged for meals to be obtained from a permitted food service establishment. The kitchen 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.

(4) **Handling of Food.** All foods while being stored, prepared and served must be protected from spoilage and contamination and be safe for human consumption. The home must ensure that staff does the following:

(a) Store perishable foods properly, 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 (e.g. pot, steam table) for serving at or above 140 degrees F. and that cold foods leave the kitchen for serving at or below 41 degrees F.

(5) A home serving 25 or more residents must possess a valid food service permit issued through the authority of the Department of Public Health or a copy of the valid food service permit of the caterer who provides meals to the residents.

**(6) Catered Food Service.** When the a home uses a catered food service (food service establishment), the home 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.

(7) A home must maintain a three day supply of non-perishable food and water for emergency needs. 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) Menus must be written and posted 24 hours prior to serving the meal. Any change or substitution must be noted and considered as a part of the original menu. Alternatives to the food offered on the menu must be available to accommodate individual resident preferences.

(9) Homes must maintain records of all menus as served for 30 days after use.

(10) The person designated by the home 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.

(11) A home must arrange for special therapeutic diets as prescribed by the resident's physician, advance practice registered nurse or physician's assistant.

Authority: O.C.G.A. §§ 31-2-7, 31-7-2.1 and 31-12-.3.

**111-8-62-.22 Temperature Conditions.**

(1) The temperature throughout the home must be maintained by an adequate heating and cooling systems 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 home must not fall below 68 degrees during waking hours and 62 degrees F during sleeping hours. Mechanical cooling devices must be made available for use in those areas of the building used by residents when inside temperatures exceed 80 degrees F. No resident must be in any residence area that exceeds 85 degrees F.

(3) Where a power outage or mechanical failure impacting the ability of the home to maintain appropriate temperature ranges occurs, the home 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 home's emergency preparedness plan.

Authority: O.C.G.A. §§ 31-2-7 and 31-7-2.1.

**111-8-62-.23 Infection Control, Sanitation and Supplies.**

(1) The home 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.

(2) A home must provide hand-sanitizing agents or soap and water at the sinks, clean towels and toilet tissue at each commode.

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

and clean towels.

(4) The home must have an effective infection control program which includes, at least 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.

(d) Enforcing work and return to work policies to minimize the spread of infection and illnesses.

(f) Providing notices as recommended by public health regarding outbreaks and infestation issues to residents, staff and any visitors.

(5) The home 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, properly stored to prevent accidental ingestion but available for and properly used in the home to minimize the spread of infections.

(6) Residents' private living spaces or bedrooms must be thoroughly cleaned and sanitized after residents move out of the rooms.

(7) The home 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, 31-7-2.1 and 31-7-12.3.

### **111-8-62-.24 Resident Files.**

(1) An individual resident file must be maintained by the administrator or on-site manager for each resident in the home. 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 copy to the Department, the resident or the resident's representative or legal surrogate, if any, upon request.

(2) Each resident file must 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 must include the name of the agency personnel primarily responsible, (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.

(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 and a physician's order for life-sustaining treatment, if any. At least the advance directive for health care form must 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(p)1.

(p) Any signed medical orders impacting end of life care, e.g. do not resuscitate, physician's orders for life sustaining treatment.

(q) All individual written care plans required by these rules and the rules for proxy caregivers, Chapter 111-8-100 if applicable.

(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 home or not, the performance of identified health maintenance activities.

(s) A copy of the search results obtained from the National Sex Offender Registry website maintained through the Department of Justice and any resulting safety plan for residents, staff and visitors.

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

(a) Spiritual preference e.g., church membership, name and telephone number of minister, priest, rabbi, or imam.

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

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

Authority: O.C.G.A. §§ 31-2-7, 31-7-2.1, 31-7-12.3, 31-8-131 *et seq.* and 31-32-1 *et seq.*

### **111-8-62-.25 Supporting Residents' Rights**

(1) The home 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) Each resident must receive care, and services which must be adequate, appropriate, and in compliance with applicable federal and state law and regulations.

(b) The home, its agents or employees, must not punish or harass the resident, because of the resident's efforts to enforce his or her rights.

(c) Each resident must 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.

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

(d) Each resident must have the right to enjoy privacy in his or her room; home personnel 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) Each resident must be treated with dignity, kindness, consideration and respect and be given privacy in the provision of personal care. Each resident must be accorded privacy and freedom for the use of bathrooms at all hours.

(g) No religious or spiritual belief or practice may 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.

(h) Each resident has 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 and interference with the daily functions of living, such as eating or sleeping.

(i) Each resident has 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 has the right to reasonable safeguards for the protection and security of his or her personal property and possessions brought into the home.

(j) Each resident's mail must be delivered unopened to the resident on the day it is delivered to the home. Each resident's outgoing correspondence may not be opened or tampered with prior to being mailed or otherwise delivered.

(k) Each resident must have access to a telephone 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.

(l) Each home 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 has the right to refuse to see visitors or terminate any visit.

(m) Each resident has the right to manage his or her own financial affairs, including the right to keep and spend his or her own money unless that resident has been adjudicated incompetent

by a court of competent jurisdiction. Each resident has 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 home.

(n) Each resident has 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 home unless waived by the resident. 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 home ordinarily supplies, and must in no way relieve the home of the obligation to insure that such necessary goods are available to the resident.

(o) Each resident has the right to receive or reject medical care, dental care, or other services except as required by law or regulations.

(p) Each resident has the right to choose and retain the services of a personal physician and any other health care professional or service. No home 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, has 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 retained in the home.

(q) Each resident has 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.

(r) Each resident has the right to inspect his or her records on request. Each resident has 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.

(s) Each resident who has not been committed to the home 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.

(t) Each resident has 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 must be posted in a common area of the home.

(u) Residents 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.

(v) Each resident has the right to file a complaint with the Department concerning care being provided in the home that violates these rules. The home must post the name of the Department and the address and telephone number where licensing complaints are received in the common area of the home.

(2) Each resident must 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-.25 which 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 special steps to assure communication of its contents to the resident.

(3) A personal care home 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.*

Authority: O.C.G.A. §§ 31-2-7 and 31-8-131 *et seq.*

#### **111-8-62-.26 Procedures for Change in Resident Condition.**

(1) In case of an accident or sudden adverse change in a resident's physical condition or emotional adjustment, a home must 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 home must retain a record of all such accidents or sudden adverse changes and the home's response in the resident's files.

(2) Where the sudden change in the resident's condition causes the resident to experience cardiac or respiratory arrest, the home 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 home must contact the hospice for directions regarding the care to be provided. If the hospice staff is not available to provide direction, then home must immediately contact the duly-appointed health care agent for direction. If no health care agent has been appointed or is not available and if no Do Not Resuscitate (DNR) order has been written, then the home must initiate cardiopulmonary resuscitation immediately and must contact emergency medical services immediately to arrange for

emergency transport.

(b) If the resident has a valid DNR order, 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 home 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 home must initiate cardiopulmonary resuscitation immediately and contact emergency medical services to arrange for emergency transport.

(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 home must immediately 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) that such efforts would be futile and there is not a physician, or authorized registered nurse or physician assistant on site to assess and provide other direction and contact emergency medical services immediately to arrange for emergency transport.

(3) 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 home and when residents are being transported by the home for any reason.

(4) An immediate investigation of the circumstances associated with an accident or injury involving a resident must be initiated by the administrator or on-site manager of the home. Additionally, a report of the occurrence of the accident or injury must be made to the representative or legal surrogate, if any, with a copy of the notification report maintained in the resident's file. The complete investigative review concerning the circumstances, cause of the incident and opportunities identified to improve care,

must be retained in a central file for quality assurance/peer review.

(5) In the event a resident develops a significant change in physical or mental condition, the governing body must provide to the Department, upon request, a current physical examination report from a physician, nurse practitioner or physician assistant, indicating the resident's continued ability to meet the resident retention requirements in these rules.

Authority: O.C.G.A. §§ 31-2-7, 31-7-2.1 and 31-7-12.3.

#### **111-8-62-.27 Death of a Resident.**

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

(2) Upon death of the resident, the home must refund to the representative or legal surrogate, as applicable, 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. §§ 31-2-7, 31-7-2.1 and 44-7-30 *et seq.*

#### **111-8-62-.28 Immediate Transfer of Residents.**

(1) The administrator or on-site manager of the home must 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 must advise both the

resident and the resident's representative or legal surrogate and case manager, if any, and immediate arrangements must be made based on the written admission agreement to transfer such resident to an appropriate facility. The administrator or on-site manager must 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 must 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 must:

(a) Inform the resident and representative or legal surrogate and case manager, 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 transferred.

(e) Provide a copy of the resident file to the receiving facility within 24 hours of transfer.

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

1. The reason for the immediate transfer.

2. The manner in which the resident and the representative or legal surrogate, if any, were informed pursuant to this paragraph.

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 applicable, 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. §§ 31-2-7, 31-7-2.1 and 44-7-30 *et seq.*

### **111-8-62-.29 Discharge or Transfer of Residents.**

(1) The administrator or on-site manager must contact the representative or legal surrogate, if any, when there is need for discharge or transfer of a resident. The home 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 111-8-62-.28, residents whose needs cannot be met by the home or who no longer choose to live in the home must be discharged or transferred to an appropriate facility based on discharge and transfer procedures entered into at the time of admission. Where the resident is incapable of making informed decisions and there is no representative or legal surrogate or the representative or legal surrogate is unwilling to act, the administrator or on-site manager must petition the probate court in the county where the home is located for an order authorizing the discharge or transfer. The transferring home must provide a copy of the resident's 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, the Department may require the home 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 home is

permissible.

(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. §§ 31-2-7, 31-7-2.1 and 44-7-30 *et seq.*

### **111-8-62-.30 Reporting.**

(1) The staff of the personal care home must 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 must also report the initiation and discontinuation of a Mattie's call to the Department utilizing the complaint intake system within 30 minutes of communications with local law enforcement authorities having occurred.

(2) The personal care home must report a serious incident using the complaint intake system and location designated by the Department within 24 hours following the occurrence of a serious incident or the home's learning that a serious incident involving a resident may have occurred. The serious incidents that must be reported to the Department include the following:

(a) Any accidental or unanticipated death of a resident not directly related to the natural course of the resident's underlying medical condition.

(b) Any serious injury to a resident that requires medical treatment.

(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 becomes associated with an account at a financial institution, will, trust, benefit of substantial value 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.

(f) When an owner, director or employee acquires a criminal record as defined in these rules.

(3) The incident report, submitted through the home's peer review process will be received by the Department in confidence and must 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.

(c) The type of incident suspected, with a brief description of the incident.

(d) Any subsequent remedial and quality measures determined through peer review to be taken by the personal care home to make such injury or harm arising from the particular incident less likely to recur.

(4) Where the Department determines that a rule violation related to the reported 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 personal care home or an independent source is subject to disclosure in accordance with applicable laws.

Authority: O.C.G.A. §§ 31-2-7, 31-7-2.1, 31-7-12, 31-8-80 *et seq.* and 35-3-170 *et seq.*

#### **111-8-62-.31 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 to determine compliance with licensure rules.

Authority: O.C.G.A. §§ 31-7-1 and 31-7-3(b).

#### **111-8-62-.32 Variance and Waiver.**

(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 home 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 home to support its application for a variance or waiver.

(b) **Waiver.** The Department, in its discretion, 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 home may request a final review of the initial waiver or variance decision made by program staff to the chief of the division by filing a written request for review of the initial decision and providing any additional written information which supports the request for review. The chief of the division will issue a final decision on behalf of the Department. Where the governing body believes that the Department has abused its discretion in acting upon the waiver or variance request, it may seek appropriate relief.

(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, 31-7-2.1 and 31-7-12.

### **111-8-62-.33 Enforcement and Penalties.**

A home 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 as applicable 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.*

**111-8-62-.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.*