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**RULES OF DEPARTMENT OF COMMUNITY HEALTH  
CHAPTER 111-8  
HEALTHCARE FACILITY REGULATION  
111-8-62 PERSONAL CARE HOMES**

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**111-8-62-.01 Authority.** The legal authority for this Chapter is O.C.G.A. § 31-2-9, 31-2-11 and Chapter 7 of Title 31 of the Official Code of Georgia Annotated.

Authority: O.C.G.A. §§ 31-2-9, 31-2-11 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 homes which provide residential services to the citizens of this State who require varying degrees of supervision and care and to assure safe, humane and comfortable supportive residential settings for adults who need such services.

Authority: O.C.G.A. §§ 31-2-9, 31-2-11, 31-7-1, 31-7-2.1 and 31-7-12.

**111-8-62-.03 Definitions.** In these rules, unless the context otherwise requires, the words, phrases and symbols set forth herein shall mean the following:

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

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

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

(d) "Applicant" means:

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

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

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

(g) "Criminal record" means:

1. conviction of a crime; or
2. arrest, charge, and sentencing for a crime where:

- (i) a plea of nolo contendere was entered to the charge; or
- (ii) first offender treatment without adjudication of guilt pursuant to the charge was granted; or
- (iii) adjudication or sentence was otherwise withheld or not entered on the charge; or
- (iv) arrest and being charged for a crime if the charge is pending, unless the time for prosecuting such crime has expired pursuant to O.C.G.A. § 17-3-1 *et seq.*
- (h) "Department" means the Department of Community Health of the State of Georgia;
- (i) "Director" means the chief administrator, executive officer or manager.
- (j) "Disabled adult" means an adult who is developmentally impaired or who suffers from dementia or some other cognitive impairment.
- (k) "Employee" means any person, other than a director, utilized by a personal care home to provide personal services to any resident on behalf of the personal care home or to perform at any facilities of the personal care home any duties which involve personal contact between that person and any paying resident of the personal care home.
- (l) "Fingerprint records check determination" means a satisfactory or unsatisfactory determination by the department based upon a records check comparison of Georgia Crime Information Center (GCIC) information with fingerprints and other information in a records check application.
- (m) "Governing Body" means the board of trustees or directors, the partnership, the corporation, the association, or the person or group of persons who maintain and control the home and who are legally responsible for the operation of the home;
- (n) "Legal Surrogate" means a duly appointed person who is authorized to act, within the scope of the authority granted under the legal surrogate's appointment, on behalf of a resident who is adjudicated or certified incapacitated. The legal surrogate may act on a resident's behalf where a resident has not been adjudicated as incapacitated provided that the action is consistent with the resident's wishes and intent and is within the scope of the authority granted. Where such authority is exercised pursuant to a Power of Attorney executed by a resident, the facility must maintain a copy of this document in the resident's files. The resident's duly appointed legal surrogate(s) shall have the authority to act on the resident's behalf as established by written applicable federal and state of Georgia law, and shall be entitled to receive information relevant to the exercise of his or her authority. No member of the governing body, administration, or staff of the personal care home or affiliated personal care homes or their family members may serve as the legal surrogate for a resident;
- (o) "Local law enforcement agency" means a local law enforcement agency with authorization to conduct criminal history background checks through the Georgia Crime Information Center (GCIC).
- (p) "Medical services" means services which may be provided by a person licensed under the Medical Practice Act O.C.G.A. § 43-34-20 *et seq.*;
- (q) "Memory care services" means the additional watchful oversight systems and devices that are required for residents who have cognitive deficits which may impact memory, language, thinking, reasoning, or impulse control, and which place the residents at risk of eloping, i.e. engaging in unsafe wandering activities outside the home.
- (r) "Memory care unit" means the specialized unit or home that either holds itself out as providing additional or specialized care to persons with diagnoses of probable Alzheimer's Disease or other

dementia who may be at risk of engaging in unsafe wandering activities outside the unit or home (eloping) or charges rates in excess of those charged other residents because of cognitive deficits which may place the residents at risk of eloping.

(s) "Non-Family Adult" means a resident 18 years of age or older who is not related by blood within the third degree of consanguinity or by marriage to the person responsible for the management of the personal care home or to a member of the governing body;

(t) "Nursing services" means those services which may be rendered by a person licensed under the Nurse Practice Act of O.C.G.A. § 43-26-1 *et seq.*;

(u) "On-site manager" means the administrator or person designated by the administrator as responsible for carrying on the day-to-day management, supervision, and operation of the personal care home, who may also serve as responsible staff person except during periods of his or her own absence;

(v) "Owner" means any individual or any person affiliated with a corporation, partnership, or association with 10 percent or greater ownership interest in the business or agency licensed as a personal care home and who:

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

(w) "Permit" or "Regular Permit" means the authorization granted by the Department to the governing body to operate a Personal Care Home;

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

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

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

(aa) "Plan of Correction" means a plan for correcting deficiencies in meeting rules and regulations of the Department of Community Health;

(bb) "Preliminary records check application" means an application for a preliminary records check determination on forms provided by the department.

(cc) "Preliminary records check determination" means a satisfactory or unsatisfactory determination by the department based only upon a comparison of Georgia Crime Information Center (GCIC) information with other than fingerprint information regarding the person upon whom the records check is being performed.

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

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

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

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

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

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

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

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

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

Authority: O.C.G.A. §§ 31-2-9, 31-2-14, 31-7-2.1, 31-7-3, 31-7-12 and 31-7-250 et seq.

#### **111-8-62-.04 Exemptions.**

These regulations do not apply to the following facilities:

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

Authority: O.C.G.A. §§ 31-2-4, 31-2-9, 31-7-2, 31-7-12 and 31-7-172.

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

- (1) The governing body of each home shall submit to the Department an application for a permit to operate under these rules and regulations. No personal care home shall be operated and no residents admitted without such a permit which is current under these rules and regulations.
- (2) The application for a permit shall be made on forms provided by the Department.
- (3) A criminal record check application for the owner and director shall accompany applications.
- (4) Each application for a permit shall be accompanied by a floor sketch of the home showing windows,

doors, room measurements, and bed placement for residents, family and/or staff and documentation of ownership or lease agreement for the property on which the home will be operated.

(5) A listing of the names of all staff, including the administrator or on-site manager, who will be working in the home, if known, shall be included with the application for a permit. This listing shall include the full name of each staff person, their assigned duties in the home, their birth date and Social Security Number. If such information is not known at the time of application, it must be provided to the Department within 30 days of issuance of a provisional permit.

(6) The ownership of the home shall be fully disclosed in its application for a permit. In the case of corporations, partnerships, and other bodies created by statute, the corporate officers and all other individuals or family groups owning ten percent or more of the corporate stock or ownership shall be disclosed in the application for a permit as well as the registered agent for service of process.

(7) All others shall submit a statement attesting to the name(s) and address(es) of each person owning any part of the facility.

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

(9) Personal care homes are expected to comply with all applicable provisions of the Americans With Disabilities Act and Section 504 of the Rehabilitation Act of 1973 and federal regulations promulgated thereunder. Any violation of these statutes or regulations may be grounds for the department to initiate action for sanction against such homes.

Authority: O.C.G.A. §§ 31-2-9, 31-2-14, 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 shall obtain a valid permit or provisional permit from the Department prior to beginning operation. To be eligible for a permit the home must be in compliance with these rules and regulations.

(2) The permit shall be displayed in a conspicuous place on the premises.

(3) Permits are not transferable from one home to another.

(4) A permit shall no longer be valid and shall be returned to the Department when the home ceases to operate, is moved to another location, the ownership changes, the governing body is significantly changed, or the permit is suspended or revoked.

(5) A permit shall be required for each home located on different premises where more than one home is operated under the same governing body.

(6) The permit shall state a maximum number of residents who may receive care at that location. No personal care home shall offer its services to more residents than its permitted capacity.

(7) A home which fails to comply with these rules and regulations shall be subject to the sanctions available to the Department pursuant to O.C.G.A. § 31-2-11, including but not limited to denial or revocation of its provisional permit or permit by the Department.

Authority: O.C.G.A. §§ 31-2-9, 31-2-11,31-7-1, 31-7-2.1 and 31-7-12.

#### **111-8-62-.07 Provisional Permits.**

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

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

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

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

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

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

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

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

#### **111-8-62-.08 Governing Body.**

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

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

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

Authority: O.C.G.A. §§ 31-2-9, 31-7-1, 31-7-2.1 and 31-7-12.

#### **111-8-62-.09 Administration.**

(1) Prior to being granted a permit each home shall develop a written Statement of policies and procedures outlining the responsibilities of the management and of the residents and which insure compliance with the Rules for Personal Care Homes. The statement shall include procedures for handling acts committed by staff or residents which are inconsistent with the policies of the home.

(2) The administrator or on-site manager of each personal care home shall designate qualified staff as responsible staff to act on his or her behalf and to carry out his or her duties in the administrator or on-site manager's absence. No resident shall be designated as staff.

(3) Personnel shall be assigned duties consistent with their position, training, experience, and the requirements of Rule 111-8-62-.10.

(4) Each home shall have a written and regularly rehearsed disaster preparedness plan, approved by the Department, in compliance with O.C.G.A. § 31-7-3(c). Evacuation plan drills shall be held by each home at least semi-annually.

(5) Each home shall have a currently listed telephone number and a telephone which is maintained in working order.

Authority: O.C.G.A. §§ 31-2-9, 31-7-1, 31-7-2.1, 31-7-3 and 31-7-12.

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

(1) The administrator, on-site manager and all other responsible staff persons working in a personal care home shall be at least 21 years of age and shall be responsible for supervising all other staff. No staff person under the age of 18 shall work except under the direct supervision of the administrator, on-site manager or a responsible staff person who is in the home.

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

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

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

(c) emergency evacuation procedures;

(d) medical and social needs and characteristics of the resident population;

(e) residents' right; and

(f) receiving a copy of the Long-term Care Facility Resident Abuse Reporting Act as outlined in O.C.G.A. § 31-8-81 *et seq.*

(3) At least one staff person having completed the minimum training requirements of Rule 111-8-62-.10(2)1. through 6. above shall be present in the home at all times resident(s) are present in the home.

(4) All persons, including the administrator or on-site manager, who offer direct care to the residents, must satisfactorily complete a total of at least sixteen (16) hours of continuing education each year, in

applicable courses approved by the Department, including, but not limited to working with the elderly, working with residents with Alzheimer's or other cognitive impairments, working with the mentally retarded, mentally ill and developmentally disabled, social and recreational activities, legal issues, physical maintenance and fire safety, housekeeping, or other topics as needed or as determined by the Department.

(5) All persons, including the administrator or on-site manager, who offers direct care to the residents, shall be responsible for maintaining awareness of each resident's normal appearance and shall be capable of intervening if a resident's state of health appears to be in jeopardy.

(6) The administrator, on-site manager, and each employee shall have received a tuberculosis screening and a physical examination by a licensed physician, nurse practitioner or physician's assistant within twelve months prior to employment (or initial application for permit or granting a permit to the home) sufficiently comprehensive to assure that the employee is free of diseases communicable within the scope of employment and physically qualified to work. Follow-up examinations shall be conducted by a licensed physician of each administrator or staff person to determine readiness to return to work following a significant illness or injury. Copies of information regarding staff member health shall be kept in the staff person's personnel folder.

(7) **Criminal History Background Checks for Owners Required.** Prior to the issuance of any new license, the owner of the business or agency applying for the license shall submit a fingerprint records check application so as to permit the department to obtain a criminal history background check.

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

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

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

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

1. a violation of O.C.G.A. § 16-5-1, relating to murder and felony murder;
2. a violation of O.C.G.A. § 16-5-21, relating to aggravated assault;
3. a violation of O.C.G.A. § 16-5-24, relating to aggravated battery;
4. a violation of O.C.G.A. § 16-5-70, relating to cruelty to children;
5. a violation of O.C.G.A. § 16-5-100, relating to cruelty to a person 65 years of age or older;
6. a violation of O.C.G.A. § 16-6-1, relating to rape;
7. a violation of O.C.G.A. § 16-6-2, relating to aggravated sodomy;

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

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

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

2. An owner with a valid personal care home license who acquires a criminal record for any of the crimes listed in Rule 111-8-62-.10(7)(c)1. through 14. above subsequent to the effective date of these rules shall disclose the criminal record to the department.

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

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

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

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

1. a violation of O.C.G.A. § 16-5-21, relating to aggravated assault;
2. a violation of O.C.G.A. § 16-5-24, relating to aggravated battery;
3. a violation of O.C.G.A. § 16-6-1, relating to rape;
4. a felony violation of O.C.G.A. § 16-8-2, relating to theft by taking;
5. a felony violation of O.C.G.A. § 16-8-3, relating to theft by deception;

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

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

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

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

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

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

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

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

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

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

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

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

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

Authority: O.C.G.A. §§ 31-2-9, 31-2-14, 31-7-2.1 31-7-12 and 31-7-250 et seq.

#### **111-8-62-.11 Staffing.**

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

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

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

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

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

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

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

(c) is kept comfortable and clean;

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

(e) is protected from injury and infection;

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

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

Authority: O.C.G.A. §§ 31-2-9, 31-7-1, 31-7-2.1 and 31-7-12.

#### **111-8-62-.12 Inspections.**

(1) The home and its records shall be available for review and examination by properly identified

representatives of the Department. Inspections may be conducted both on an announced and unannounced basis. Unannounced inspections shall be conducted as needed.

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

Authority: O.C.G.A. §§ 31-2-9, 31-7-1, 31-7-3, 31-7-2.1 and 31-7-12.

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

(1) A home shall be so constructed, arranged, and maintained as to provide adequately for the health, safety, access and well-being of the residents.

(2) A home shall provide separate and distinct living and sleeping areas;

(a) The living and sleeping areas for a given resident shall be in adjoining wings, units or buildings, which allow for necessary supervision and assistance by staff.

(b) Openable windows used for ventilation to the outside and exterior doors used for ventilation shall be screened and in good repair.

(c) Supportive devices, excluding physical restraints, such as handrails and grab bars shall be installed to enable residents to achieve a greater degree of mobility and safety from falling;

(3) All homes shall provide an area for use by residents and visitors which affords privacy.

(4) There must be at least one centrally located living room for the free access to and informal use of the residents.

(5) At least one current calendar and working clock shall be placed in the common living area of each home.

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

(7) A comfortable dining area adequate in size for the number of residents being served shall be provided.

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

(9) A living room, dining room, hallway, or other room not ordinarily used for sleeping shall not be used for sleeping by residents, family or staff.

(10) A home shall provide laundering facilities on the premises for residents' personal laundry.

(11) The following minimum standards for resident bedrooms must be met:

(a) Bedrooms shall have at least 80 square feet of usable floor space per resident. Usable floor space

is defined as that floor space under a ceiling at least seven feet in height. The following exception applies to the minimum of 80 square feet of floor space requirement: personal care homes holding permits at the time of adoption of these Rules may have bedrooms with a minimum of 70 square feet of usable floor space per resident. The regular floor space requirements must be met if a home falling under this exception has its permit revoked, changes ownership, changes location, or for any other reason surrenders its permit to the state.

(b) There shall be no more than four residents per bedroom;

(c) Each bedroom shall have at least one window opening easily to the outside. Bedrooms shall be well ventilated and maintained at a comfortable temperature;

(d) Spouses shall be permitted, but not required to share a bedroom.

(e) Bedrooms for residents shall be separated from halls, corridors and other rooms by floor to ceiling walls. Hallways shall be not used for sleeping;

(f) The floor plan shall be such that no person other than the resident assigned to a bedroom should pass through that resident's bedroom in order to reach another room;

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

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

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

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

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

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

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

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

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

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

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

handrails on the open sides;

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

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

(16) The following exterior conditions must be maintained:

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

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

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

Authority: O.C.G.A. §§ 31-2-9, 31-7-1, 31-7-2.1 and 31-7-12.

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

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

(2) Each home shall comply and remain in compliance with any and all local ordinances that specifically address fire safety in homes of that size and function. Private quarters shall be maintained in such a manner as to comply with Fire Safety codes and not threaten the health or safety of residents. In the absence of or in addition to any such local ordinances, the following requirements must be met:

(a) Wall type electric outlets and lamps or light fixtures shall be maintained in a safe and operating condition. It shall be the home's responsibility to insure that the necessary light bulbs are provided;

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

(c) Space heaters may not be used unless safely positioned and operated in compliance with all state and local fire codes and in accordance with manufacturer's instructions. Space heaters using combustible fuel shall be vented to the outside.

(d) Fire screens and protective devices shall be used with fireplaces, stoves and heaters, including space heaters;

(e) Each home must be protected with sufficient smoke detectors, powered by house electrical service with battery back-up, which when activated shall initiate an alarm which is audible in the sleeping rooms;

(f) Each home must have at least one charged 10 lb. multipurpose ABC fire extinguisher on each occupied floor and in the basement. These extinguishers shall be checked annually to assure they remain in operable condition;

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

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

(3) The electrical service of the home shall be inspected by a qualified electrician and declared free of hazards within no more than six months prior to the date of filing the application for a permit. A signed copy of this inspection report shall be submitted to the Department as a part of the application. Electrical service shall be maintained in a safe condition at all times. The Department may require a re-inspection of the electrical service at any time renovation or repair work is done in the home or there is a request for a change in capacity or there is reason to believe that a risk to residents exists.

(4) The Department may request a repeat fire safety inspection of any personal care home if at any time the physical plant undergoes substantial repair, renovation, additions, or the Department has reason to believe that residents are at risk. Further, if the Department determines that a substantial increase in the amount of personal assistance is being offered to residents, a repeat fire safety inspection may be requested. All requirements so identified shall be met by the home.

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

(6) Floors, walls, and ceilings shall be kept clean and in good repair;

(7) Kitchen and bathroom areas shall be cleaned with disinfectant at least daily and maintained to insure cleanliness and sanitation.

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

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

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

(11) Any pets living at the home must meet the following requirements:

(a) No vicious animals shall be kept at the home;

(b) All animals must be inoculated for rabies yearly;

(c) Exotic animals must be obtained from federally approved sources.

(12) Poisons, caustics, and other dangerous materials shall be stored and safeguarded in an area away from food preparation and storage areas, and away from medication storage areas.

(13) A home shall be equipped and maintained so as to provide a sufficient amount of hot water for residents' use. Heated water provided for resident's use shall not exceed 120 degrees F. at the hot water fixture and a water temperature monitor shall be installed at the hot water fixture.

(14) The following evacuation requirements must be met:

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

(b) There shall be an established procedure and mechanism for alerting and caring for residents in case of emergencies and evacuating them to safety. This shall include instructions and evacuation plans

posted on each floor of a home. Each sleeping room shall have a secondary exit. This secondary exit may be a door or a window usable for escape. A plan showing these routes of escape shall be posted in the home on each floor;

(c) A home serving a person or persons dependent upon wheelchairs for mobility shall provide at least two (2) exits from the home, remote from each other, that are accessible to these persons; and

(d) A home serving persons dependent upon a wheelchair for mobility shall have a clearly accessible route for emergencies throughout the common areas of the home, and at least one fully accessible bathroom.

Authority: O.C.G.A. §§ 31-2-9, 31-7-1, 31-7-2.1 and 31-7-12.

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

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

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

(3) Resident bedroom furnishings shall include the following:

(a) an adequate closet or wardrobe;

(b) lighting fixtures sufficient for reading and other resident activities;

(c) a bureau or dresser or the equivalent and at least one chair with arms per resident in each bedroom;

(d) a mirror appropriate for grooming;

(e) an individual bed at least 36-inches wide and 72-inches long with comfortable springs and mattress, clean and in good condition. The mattress shall be not less than five-inches thick, or four-inches, if of a synthetic construction. Couples may request a double bed when available. Roll-a-ways, cots, double-decks, stacked bunks, hide-a-beds and studio couches are not to be used in lieu of standard beds; and

(f) bedding for each resident which includes two sheets, a pillow, a pillow case, a minimum of one blanket and bedspread. A home shall maintain a linen supply for not less than twice the bed capacity. A home shall provide each resident clean towels and wash cloths at least twice weekly and more often if soiled. Bed linen shall be changed at least weekly or more often in soiled.

(4) Provision shall be made for assisting a resident to personalize the bedroom by allowing the use of his or her own furniture if so desired and mounting or hanging pictures on bedroom walls.

Authority: O.C.G.A. §§ 31-2-9, 31-7-1, 31-7-2.1 and 31-7-12.

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

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

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

(b) The home shall admit or retain only ambulatory residents;

(c) The home shall not admit, or retain persons who require the use of physical or chemical restraints, isolation, or confinement for behavioral control;

(d) Persons admitted to a home may not be confined to bed and may not require continuous medical or nursing care and treatment;

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

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

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

(a) the signature, address, and telephone number of the examining physician;

(b) a description of physical and mental health status including diagnosis and any functional limitation;

(c) recommendations for care including medication, diet, and medical, nursing, health, or supportive services which may be needed on a periodic basis;

(d) a statement that, on the day the examination is given:

1. continuous 24 hour nursing care is not needed;

2. the person's needs can be met in a facility that is not a medical or nursing facility;

3. The person has received screening for tuberculosis within twelve (12) months of admission and has no apparent signs or symptoms of infectious disease which is likely to be transmitted to other residents or staff;

4. The person may need personal assistance with some activities of daily living.

(e) If the above information is not contained in the report of the physical examination, the administrator or on-site manager shall obtain the above information from the resident's physician. Such information shall be recorded in the resident's file. In the event a resident develops a significant change in physical or mental condition, the governing body shall be required to provide the Department, upon request, with a

current physical examination from a physician indicating the resident's continued ability to meet the requirements of the home.

Authority: O.C.G.A. §§ 31-2-9, 31-7-1, 31-7-2.1 and 31-7-12.

### **111-8-62-.17 Admission Agreement.**

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

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

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

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

Authority: O.C.G.A. §§ 31-2-9, 31-7-1, 31-7-2.1 and 31-7-12.

**111-8-62-.18 Services.**

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

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

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

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

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

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

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

Authority: O.C.G.A. §§ 31-2-9, 31-7-1, 31-7-2.1 and 31-7-12.

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

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

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

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

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

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

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

Authority: O.C.G.A. §§ 31-2-9, 31-7-1, 31-7-2.1 and 31-7-12.

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

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

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

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

11. the procedures that will be utilized for handling emergency situations; and
12. the involvement of the Unit with families and family support programs.

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

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

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

1. multipurpose room(s) for dining, group and individual activities which are appropriately furnished to accommodate the activities taking place;
2. secured outdoor spaces and walkways which are wheel chair accessible and allow residents to ambulate safely but prevent undetected egress;
3. high visual contrasts between floors and walls and doorways and walls in resident use areas except for fire exits, door and access ways which may be designed to minimize contrast to conceal areas where the residents should not enter;
4. adequate and even lighting which minimizes glare and shadows;
5. the free movement of the resident, as the resident chooses, between the common space and the resident's own personal space in a bedroom that accommodates no more than two (2) residents;
6. individually identified entrances to residents' rooms to assist residents in readily identifying their own personal spaces;
7. an effective automated device or system to alert staff to individuals entering or leaving the building in an unauthorized manner. A facility need not use an automated alert for an exit door when the particular exit is always staffed by a receptionist or other staff member who views and maintains a log of individuals entering and leaving the facility. If the exit door is not always staffed, then the facility must activate an automated alert when the door is not attended;
8. communication system(s) which permit staff in the unit to communicate with other staff outside the unit and with emergency services personnel as needed; and
9. a unit or home which undergoes major renovation or is first constructed after the effective date of these rules, the unit shall be designed and constructed in compliance with the current "*Guidelines for Design and Construction of Healthcare Facilities*", applicable to assisted living facilities with particular attention to the requirements for a facility choosing to provide Alzheimer's and dementia care, published by the American Institute of Architects Press.

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

1. a licensed registered nurse or a licensed practical nurse who is working under the supervision of a licensed physician or registered nurse shall administer medications to the residents who are incapable of self-administration of medications;

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

3. staff who, prior to caring for residents independently, have successfully completed an orientation program that includes at least the following components in addition to the general training required in Rule 111-8-62-.10 :

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

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

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

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

1. the nature of Alzheimer's Disease and other dementias, including the definition of dementia, the need for careful diagnosis and knowledge of the stages of Alzheimer's Disease;

2. common behavior problems and recommended behavior management techniques;

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

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

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

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

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

8. new developments in diagnosis and therapy that impact the approach to caring for the residents in the special unit;

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

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

**(f) Special Admission Requirements for Unit Placement.** Ninety days after the effective date of

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

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

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

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

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

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

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

Authority: O.C.G.A. §§ 31-2-9, 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-.21 Medications.**

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

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

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

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

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

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

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

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

(4) Storage of Medications:

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

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

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

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

Authority: O.C.G.A. §§ 31-2-9, 31-7-2.1, 31-7-1 and 31-7-12.

#### **111-8-62-.22 Nutrition.**

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

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

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

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

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

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

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

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

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

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

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

Authority: O.C.G.A. §§ 31-2-9 and 31-7-2.1.

#### **111-8-62-.23 Temperature Conditions.**

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

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

Authority: O.C.G.A. §§ 31-2-9 and 31-7-2.1.

#### **111-8-62-.24 Supplies.**

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

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

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

Authority: O.C.G.A. §§ 31-2-9 and 31-7-2.1.

#### **111-8-62-.25 Resident Files.**

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

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

(a) identifying information including name, social security number, veteran status and number, age, sex and previous address;

(b) name, address and telephone number of next of kin, legal guardian and/ or representative or legal surrogate, if any, or representative payee and any court order or written document designating the resident's representative or legal surrogate, if any;

(c) name, address and telephone number of any person or agency providing additional services to the resident. This information shall include the name of the agency personnel primarily responsible, (i.e., the caseworker, case manager, or therapist);

(d) date of admission, prior residence of resident, referral source, agency contact and telephone number of referral source;

- (e) date of discharge, facility or residence discharged to and telephone number;
  - (f) the name, address and telephone number of a physician, hospital and pharmacy of the resident's choice;
  - (g) a record of all monetary transactions conducted on behalf of the resident with itemized receipts of all disbursements and deposits;
  - (h) a record of all monies and other valuables entrusted to the home for safekeeping; a receipt for same shall be provided to the resident or representative or legal surrogate, if any, at the time of admission and at anytime thereafter when the resident acquires additional property and wishes to entrust such property to the home for safekeeping;
  - (i) health information including all health appraisals, diagnoses, prescribed diets, medications, and physician's instructions;
  - (j) an inventory of all personal items brought to the home by the resident to be updated at anytime after admission if a resident or representative or legal surrogate, if any, submits to the home a new inventory of the resident's personal items;
  - (k) a signed copy of the Resident's Rights form;
  - (l) a signed copy of the admission agreement;
  - (m) any power of attorney or document issued by a court or by the Social Security Administration or any other governmental authority which designates another person as responsible for management of the resident's finances;
  - (n) a copy of a living will and/or durable power of attorney for health care if executed prior to 2007 or a copy of the Georgia advance directive for health care, if any, the forms for which shall be made available at the time of admission and shall remain available to the resident;
  - (o) a copy of the resident's written waiver of the personal needs allowance charge pursuant to the provisions of Rule 111-8-62-.26(p)1.; and
  - (p) a copy of the physician's statement certifying which staff person or persons have been trained and are qualified to administer insulin to the resident pursuant to the provisions of Rule 111-8-62-.21(1)(b).
- (3) The following information may be given voluntarily by the resident, guardian, or representative or legal surrogate, if any, but may not be required:
- (a) religious preference, church membership, name and telephone number of minister, priest or rabbi; and
  - (b) information about insurance policies and prearranged funeral and burial provisions, if any.
- (4) Resident files shall be maintained by the home for a period of three years after a resident's discharge.

Authority: O.C.G.A. §§ 31-2-9, 31-7-2.1, 31-8-131 et seq. and 31-32-1 et seq.

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

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

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

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

(c) Each resident shall have the right to:

1. exercise the constitutional rights guaranteed to citizens of this state and this country including, but not limited to, the right to vote;
2. choose activities and schedules consistent with the resident's interests, and assessments;
3. interact with members of the community both inside and outside the home and to participate fully in the life of the community; and
4. make choices about aspects of his or her life in the home that are significant to the resident;

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

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

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

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

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

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

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

(k) Each resident shall have the right to use, keep and control his or her own personal property and possessions in the immediate living quarters, except to the extent a resident's use of his or her property would interfere with the safety or health of other residents. Each resident shall have the right to reasonable safeguards for the protection and security of his personal property and possessions brought into the facility;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) A personal care home shall comply with the provisions of the "Remedies for Residents of Personal Care Homes Act" as outlined in O.C.G.A. § 31-8-131 *et seq.*

Authority: O.C.G.A. §§ 31-2-9, 31-7-2.1, 31-8-50 *et seq.* and 31-8-131 *et seq.*

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

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

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

Authority: O.C.G.A. §§ 31-2-9 and 31-7-2.1.

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

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

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

7-30 et seq.

Authority: O.C.G.A. §§ 31-2-9, 31-7-2.1 and 44-7-30 et seq.

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

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

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

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

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

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

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

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

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

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

1. the reason for the immediate transfer;

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

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

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

Authority: O.C.G.A. §§ 31-2-9, 31-7-2.1 and 44-7-30 et seq.

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

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

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

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

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

Authority: O.C.G.A. §§ 31-2-9, 31-7-2.1 and 44-7-30 *et seq.*

### **111-8-62-.31 Reporting.**

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

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

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

- (a) Any death of a resident;
- (b) Any serious injury to a resident that requires medical attention;

(c) Any rape, assault, any battery on a resident, or any abuse, neglect, or exploitation of a Resident in accordance with the Long Term Care Resident Abuse Reporting Act O.C.G.A. § 31-8-80 *et seq*;

(d) An external disaster or other emergency situation that affects the continued safe operation of the residence;

(e) Any circumstances where a member of the governing body, administration, staff associated with or affiliated with the personal care home, or family member of staff is associated with a will, trust, or life insurance policy of a resident or former resident to verify that such gift is knowingly and voluntarily made and not the result of any coercion; and

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

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

(a) The name of the personal care home and the name of the administrator or site manager;

(b) The date of the incident and the date the personal care home became aware of the incident; and

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

(d) Any immediate corrective or preventative action taken by the personal care home to ensure against the replication of the incident.

(5) Where the Department's Healthcare Facility Regulation Division determines that a rule violation related to the incident has occurred, the Department, through the Healthcare Facility Regulation Division, will initiate a separate complaint investigation of the incident. The complaint investigation report and the report of any rule violation compiled by the Healthcare Facility Regulation Division on behalf of the Department arising either from the initial report received from the personal care home or an independent source shall be subject to disclosure in accordance with applicable laws.

Authority: O.C.G.A. §§ 31-2-9, 31-7-2.1, 31-7-12, 31-8-80 *et seq.* and 35-3-170 *et seq.*

### **111-8-62-32 Deemed Status.**

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

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

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

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

(a) Variance. A variance may be granted by the Department upon a showing by the applicant or petitioner that the particular rule or regulation that is the subject of the variance request should not be

applied as written because strict application of the rule would cause undue hardship. The applicant or petitioner must also show that adequate standards affording protection for the health, safety, and care of the residents exist and will be met in lieu of the exact requirements of the rule or regulations in question;

(b) Waiver. The Department may dispense entirely with the enforcement of a rule or regulation by granting a waiver upon a showing by the applicant or petitioner that the purpose of the rule or regulation is met through equivalent standards affording equivalent protection for the health, safety, care, and rights of the residents; and

(c) Experimental Variance or Waiver. The Department may grant variances and waivers to allow experimentation and demonstration of new and innovative approaches to delivery of services upon a showing by the applicant or petitioner that the intended protections afforded by the rule or regulation which is the subject of the request are met and that the innovative approach has the potential to improve service delivery without compromising health, safety, residents' rights, or other relevant standards.

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

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

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

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

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

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

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

(a) issuing a public or private reprimand;

(b) imposition of a fine; and

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

(6) The Department is empowered to institute appropriate proceedings in a court of competent

jurisdiction for the purpose of enjoining violation of any applicable provision of Title 31 of the Official Code of Georgia Annotated, or of these rules and regulations.

Authority: O.C.G.A. §§ 31-2-11, 31-7-2.1 and 31-7-4.