GEORGIA DEPARTMENT
OF COMMUNITY HEALTH

Brian P. Kemp, Governor

Frank W. Berry, Commissioner

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PUBLIC NOTICE OF PROPOSED RULE CHANGES

Pursuant to the Georgia Administrative Procedures Act, Official Code of Georgia (O.C.G.A.) § 50-13-1, et seq., the Georgia Department of Community Health is required to provide public notice of its intent to adopt, amend, or repeal certain rules other than interpretative rules or general statements of policy. Accordingly, the Department hereby provides notice of its intent to revise the **Rules and Regulations for Assisted Living Communities, Ga. Comp. Rules & Regs., R. 111-8-63.** These rules are being proposed pursuant to the authority granted to the Department in O.C.G.A. §§ 31-2-5 and 31-2-7. An exact copy of the revised rules and a synopsis of the revisions are attached to this public notice.

NOTICE OF PUBLIC HEARING

An opportunity for public comment will be held on January 14, 2020 at 10:30 a.m. at the Department of Community Health (2 Peachtree St., N.W., Atlanta, GA 30303) in the 5th Floor Board Room. Oral comments may be limited to ten (10) minutes per person. Individuals who are disabled and require assistance to participate during this meeting should contact the Office of General Counsel at (404) 656-7993 at least three (3) business days prior to the meeting.

Individuals wishing to comment in writing on the proposed rules should do so on or before January 17, 2020. Comments may be faxed to (404) 656-0663, emailed to vharrell@dch.ga.gov, or mailed to the following address:

Attention: Office of General Counsel
Georgia Department of Community Health
2 Peachtree Street, NW, 40th Floor
Atlanta, GA 30303

Comments from written and public testimony will be provided to the Board of Community Health prior to February 13, 2020. The Board will vote on the proposed changes on February 13, 2020.

NOTICE IS HEREBY GIVEN THIS 12th DAY OF December, 2019

Frank W. Berry

RULES OF
GEORGIA DEPARTMENT OF COMMUNITY HEALTH
HEALTHCARE FACILITY REGULATION DIVISION

CHAPTER 111-8-63
RULES AND REGULATIONS FOR ASSISTED LIVING COMMUNITIES

SYNOPSIS OF REVISED RULES

STATEMENT OF PURPOSE: The Georgia Department of Community Health proposes to revise the Rules and Regulations for Assisted Living Communities, Chapter 111-8-63. These rules are being revised pursuant to the authority granted the Department of Community Health in O.C.G.A. § 31-2-5 and O.C.G.A. § 31-2-7.

MAIN FEATURE OF THE PROPOSED RULE: Revision of the rules to remove criminal background check requirements which are now found in Chapter 111-8-12; to add a requirement that homes post inspection reports online; and to add requirements necessary to comply with HB 374.

RULES OF
GEORGIA DEPARTMENT OF COMMUNITY HEALTH
HEALTHCARE FACILITY REGULATION DIVISION

CHAPTER 111-8
HEALTHCARE FACILITY REGULATION

111-8-63
RULES AND REGULATIONS FOR ASSISTED LIVING COMMUNITIES

TABLE OF CONTENTS

111-8-63-.03	Definitions
111-8-63-.09	Workforce Qualifications, Training and Staffing
111-8-63-.11	Community Accountability
111-8-63-.20	Medications

Rule 111-8-63-.03 Definitions

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

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

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

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

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

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

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

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

4. When the assisted living community is owned by a corporation, the governing body of the corporation must

authorize the application for the license, complete the statement of responsibility and serve as the licensee.

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

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

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

(h) "Assisted self-preservation" means the capacity of a resident to be evacuated from an assisted living community to a designated point of safety and within an established period of time as determined by the Office of Fire Safety Commissioner. Assisted self-preservation is a function of all of the following:

1.~~(A)~~ the condition of the individual,

2.~~(B)~~ the assistance that is available to be provided to the individual by the staff of the assisted living community; and

3.~~(C)~~ the construction of the building in which the assisted living community is housed, including whether such building meets the state fire safety requirements applicable to an existing health care occupancy.

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

~~(j) "Criminal records check" means a search as required by law of the records maintained by law enforcement authorities to determine~~

~~whether the applicant for licensure or employment has a criminal record as defined in O.C.G.A §§ 31-2-9 and 31-7-250 as applicable.~~

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

~~1. conviction of a crime; or~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(sv) "Legal Surrogate" means a duly appointed person who is authorized to act, within the scope of the authority granted

under the legal surrogate's appointment, on behalf of a resident who is adjudicated incapacitated.

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

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

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

(uz) "Memory care services" means the additional watchful oversight systems and devices that are required for residents who have cognitive deficits which may impact memory, language, thinking, reasoning, or impulse control, and which place the residents at risk of eloping, i.e. engaging in unsafe wandering activities outside the assisted living community.

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

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

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

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

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

1. purports to or exercises authority of an owner in the business or agency; ~~or~~

2. applies to operate or operates the business or agency; ~~or~~

3. maintains an office on the premises of the assisted living community; ~~or~~

4. resides at the assisted living community; ~~or~~

5. has direct access to persons receiving care at the assisted living community; ~~or~~

6. provides direct personal supervision of assisted living community personnel by being immediately available to provide assistance and direction during the time such assisted living community services are being provided; or

7. enters into a contract to acquire ownership of such a business or agency.

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

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

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

(dd~~ii~~) "Proxy caregiver" means an unlicensed person or a licensed health care facility that has been selected by a disabled individual or a person legally authorized to act on behalf of such individual to serve as such individual's proxy caregiver and meets the requirements contained in the Rules and Regulations

for Proxy Caregivers Used in Licensed Healthcare Facilities, Chapter 111-8-100.

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

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

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

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

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

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

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

(kkqq) "Self-preservation" means the ability to respond to an emergency condition, whether caused by fire or otherwise, and escape the emergency without physical, hands-on assistance from staff. The resident may move from place to place by walking, either unaided or aided by prosthesis, brace, cane, crutches, walker or hand rails, or by propelling a wheelchair.

(llrr) "Staff" means any person who performs duties in the assisted living community on behalf of the assisted living community.

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

Authority: O.C.G.A. §§ 31-2-7, 31-2-8, 31-2-9, 31-7-1 and 43-26-12.

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

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

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

(a) residents' rights and identification of conduct constituting abuse, neglect or exploitation of a resident and reporting requirements to include the employee's receipt of a copy

of the Long-Term Care Facility Resident Abuse Reporting Act as outlined in O.C.G.A. § 31-8-81 et seq.;

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

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

(d) emergency preparedness.

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

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

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

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

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

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

(4) **Trained Staff Present.** At least one staff person who has completed the minimum training requirements of Rule 111-8-63-.09(2)(a) through (de) and (3)(a) through (e) above must be present in the assisted living community at all times any residents are present to provide necessary oversight and assistance to staff

providing hands-on personal services who have not completed the training, to ensure that care and services are delivered safely and in accordance with these rules.

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

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

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

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

(9) **Hospice Training.** The assisted living community shall ensure that any medication aide(s) who will be administering liquid morphine to any hospice patient(s) residing in the community receive adequate training from a licensed hospice on the safe and proper administration of liquid morphine prior to such administration and on an annual basis thereafter. The community shall maintain documentation of all training provided.

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

(11) **Criminal History Background Checks for Owners Required.** The owner of the business or agency applying for the license must comply with the requirements of the Rules and Regulations for Criminal Background Checks, Chapter 111-8-12.~~have a fingerprint records check determination as specified in O.C.G.A. § 31-2-9 or specific rules passed pursuant to the statute. In the event that an apparent owner claims not to be an "owner" as defined in Rule 111-8-63-.03(ee) and does not wish to obtain a fingerprint records check determination, the person must submit an affidavit which sets forth the facts that establishes that the person does not meet the definition of an "owner."~~

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

~~(b) If the owner wants to contest the determination regarding the criminal record and the associated denial or revocation of the community's permit; the owner~~

must appeal in writing the criminal record determination, permit denial or revocation within 10 days of receipt of written notice by the Department.

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

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

(12) **Criminal History Background Checks for Director, Administrator and Onsite Manager Required.** Prior to serving as a director, administrator or onsite manager of an assisted living community, the community must obtain a satisfactory fingerprint records check determination for the person to be hired in compliance with the Rules and Regulations for Criminal Background Checks, Chapter 111-8-12provisions of O.C.G.A. § 31-7-250*et seq.* or specific rules passed pursuant to the statute

.

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

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

(c) The director, administrator or onsite manager of the assisted living community must immediately submit to

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

(~~13~~2) **Criminal History Background Checks for Direct Access Employees Required.** Prior to serving as a~~n~~ direct access employee, ~~other than a director of an assisted living community~~, the community must obtain a satisfactory fingerprint records check determination for the person to be hired in compliance with the Rules and Regulations for Criminal Background Checks, Chapter 111-8-12.~~provisions of O.C.G.A. § 31-7-250*et seq.* or specific rules passed pursuant to the statute.~~

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

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

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

(a) evidence of a satisfactory fingerprint record check determination, if applicable ~~or a satisfactory criminal history background check determination~~;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) is kept comfortable and clean;

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

(e) is protected from avoidable injury and infection;

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

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

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

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

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

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

Authority: O.C.G.A. §§ 31-2-7, 31-2-8, 31-2-9, 31-7-1 et seq. and 43-26-12.

Rule 111-8-63-.10 Community Accountability

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

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

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

(4) A copy of the most recent inspection report and plan of correction must be displayed in the assisted living community in a location that is routinely used by the community to communicate information to residents and visitors ~~instead of being sent to the Department as currently required in Rule 111-8-25-.06(6)~~. Additionally, if the community maintains a website, it shall post a web link in a prominent location on the main page of the website that provides access to copies of all inspection reports and plans of correction from the previous 18 months. When the Department develops a website for receiving plans of correction electronically and notifies the community of the appropriate internet address, the community also must file its plan of correction electronically on the Department's website within 10 days of receipt of the report of inspection.

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

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

(~~6~~7) The assisted living community must complete and maintain an accurate and current licensed residential care profile on file with the Department when the Department makes available a system for the submission and collection of such information electronically.

(~~7~~8) The assisted living community must provide services that are consistent with the information reported on its licensed residential care profile, its license and these rules.

(~~8~~9) The assisted living community's marketing materials must be consistent with its licensure classification as an assisted living community, the information reported on its licensed residential care profile, and these rules.

(~~9~~10) Only an assisted living community licensed pursuant to these rules may hold itself out as offering assisted living care.

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

Rule 111-8-63-.20 Medications

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

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

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

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

2. reading the label, opening the container, removing a prescribed amount of medication from the container, and closing the container, in the presence of the resident;

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

4. applying topical medications;

5. returning the medication container to proper secured storage; and

6. assisting the resident's use of an EPI pen where the resident has known severe allergies for which an EPI pen has been prescribed on condition that there is an established written protocol detailing how it is to be used and when. The protocol must include

immediately calling Emergency Services, 911, after any use of the EPI pen.

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

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

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

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

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

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

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

any issues to the assisted living community administration for resolution.

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

1. Conduct quarterly reviews of the drug regimen for each resident of the assisted living community and report any irregularities to the assisted living community administration.

2. Remove for proper disposal any drugs that are expired, discontinued or in a deteriorated condition or where the resident for whom such drugs were ordered is no longer a resident.

3. Establish or review policies and procedures for safe and effective drug therapy, distribution, use and control.

4. Monitor compliance with established policies and procedures for medication handling and storage.

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

1. Administer physician ordered oral, via a feeding tube, ophthalmic, topical, otic, nasal, vaginal and rectal medications.

2. Administer insulin, epinephrine, and B12 pursuant to physician direction and protocol.

3. Administer medications via a metered dose inhaler.

4. Conduct finger stick blood glucose testing following established protocol.

5. Administer a commercially prepared disposable enema ordered by a physician.

6. Assist residents in the supervision of self-administration of medications.

7. Administer liquid morphine to a resident of the community who is the patient of a licensed hospice, pursuant to a hospice physician's written order that contains specific instructions for indication, dosage, frequency and route of administration.

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

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

1. a separation notice that clearly describes the facts that support the termination for cause;

2. written notice that being terminated for cause related to the administration of medications, if not successfully appealed through a hearing on right to unemployment benefits will result in the loss of good standing on the Georgia Certified Medication Aide Registry; and

3. the loss of good standing on the Certified Medication Aide Registry will make the aide ineligible for hiring as a certified medication aide by another assisted living community~~.; and~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) proper medication storage and disposal;

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

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

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

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

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

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

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

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

(c) For any administration of liquid morphine by a certified medication aide, staff shall observe and document the following in the resident's record:

1. the resident's need for PRN liquid morphine, including but not limited to verbalizations of pain, groaning, grimacing or restlessness;

2. the date, time and location of the initial dose administered by a licensed hospice health care professional;

3. the dosage, time and route of administration for the morphine administered in the community;

4. the training provided by the licensed hospice; and

5. information regarding the special circumstances under which the hospice was unavailable to administer the medication.

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

(11) **Timely Management of Medication Procurement.** Where the assisted living community procures medications on behalf of the residents, the community must obtain new prescriptions within

48 hours of receipt of notice of the prescription or sooner if the prescribing physician indicates that a medication change must be made immediately. If the pharmacy does not have the medication needed for the immediate change, available and has not obtained further directions from the physician, the community must notify the physician of the unavailability of the prescription and request direction. Refills of prescribed medications must be obtained timely so that there is no interruption in the routine dosing. Where the assisted living community is provided with a new medication for the resident, the MAR must be modified to reflect the addition of the new medication within 48 hours or sooner if the prescribing physician indicates that the medication change must be made immediately.

(12) **Storage and Disposal of Medications.** Medications must be stored securely and inventoried appropriately to prevent loss and unauthorized use. Medications must be stored under lock and key at all times whether kept by a resident or kept by the assisted living community for the resident, unless the medication is required to be kept by the resident on his or her person or staff member in close attendance due to the need for physician-prescribed frequent or emergency use. Additionally, for controlled substances, the secure storage must be a locked cabinet or box of substantial construction and a log must be maintained and updated daily by the community to account for all inventory.

(a) Duplicate keys for all medication storage containers must be available on site for appropriate use.

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

(c) Medications must be properly labeled in separate unit or multi-unit dose packaging and handled in accordance with physician's instructions, and laws and regulations applicable to the medications.

(d) The assisted living community must ensure that it properly disposes of unused medications using the current U.S. Food and Drug Administration or U.S. Environmental Protection Agency guidelines for the specific medications.

(e) The supply of liquid morphine on site shall be limited to 50 ml for each hospice patient in the community for which there is a physician's order for such medication.

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