

**RULES OF
DEPARTMENT OF COMMUNITY HEALTH
HEALTHCARE FACILITY REGULATION**

REPEAL CHAPTER 290-5-45

AND

REPLACE WITH NEW CHAPTER 111-8-16

RULES AND REGULATIONS FOR DISASTER PREPAREDNESS PLANS

SYNOPSIS OF PROPOSED RULE CHANGES

STATEMENT OF PURPOSE: The Department of Community Health proposes to repeal the Rules for Disaster Preparedness Plans, Chapter 290-5-45, with a new Chapter number, 111-8-16. This change is necessary to reflect that the enforcement of the rules for disaster preparedness plans is the responsibility of the Department of Community Health rather than the Department of Human Resources, which has since been renamed as the Department of Human Services. These rules are being proposed pursuant to the authority granted the Department of Community Health in O.C.G.A. §§ 31-2-5, 31-2-6 and 31-2-7.

The proposed rules restate existing rules applicable to providers licensed by the Department of Community Health to develop and maintain disaster preparedness plans. In the formulation of the proposed new rules, the Department has considered the economic costs associated with the regulations and the impact on small businesses in the state. To the extent possible, the proposed rules do not impose excessive regulatory costs on the regulated entities while supporting the quality of care being delivered and the health and safety of the participants receiving care.

MAIN FEATURES OF THE PROPOSED RULES: The proposed Rules for Disaster Preparedness Plans, Chapter 111-8-16, set forth, the existing standards for disaster preparedness plans. These proposed Rules do not change the existing rules except to replace the Chapter number and the name of the Department and update legal references throughout. The proposed rules include the following features:

- Substitution in **Rule 111-8-16-.01 Definitions** of Community Health for Human Resources in the definitions of the Department and Board.
- Restatement in **Rule 111-8-16-.02 Exemptions** of existing exemptions for family personal care homes, home health agencies, specimen collection stations, emergency care centers and health testing facilities.
- Restatement in **Rule 111-8-16-.03 Disaster Preparedness Plan** to submit the plan for approval to the Department and deletion of an outdated reference to the initial effective date of the rules.
- Restatement in **Rule 111-8-16-.04 Content of Plan** of the provisions for the plan to address the who, what, when, where and how questions in the event of a fire, explosion, unanticipated interruption of utility, damage to physical plant.
- Restatement in **Rule 111-8-16-.05 Records** of existing provisions for the facility to maintain records of changes to plans, rehearsals and plan implementations.
- Revision of **Rule 111-8-16-.06 Scope of Regulations** to substitute Community Health for Human Resources and update Georgia Code reference.
- Restatement in **Rule 111-8-16-.07 Notice to the Department** of existing provisions to notify the Department if implementation of the plan results in an injury or loss of life.
- Restatement in **Rule 111-8-16-.08 Waivers and Variances** of existing provisions regarding being able to petition for a variance or waiver and updating of the Georgia Code reference.
- Restatement in **Rule 111-8-16-.09 Enforcement** the legal authorities for enforcement of these rules.
- Restatement in **Rule 111-8-16-.10 Severability** to allow for the continuation of the remaining rules in the event that a portion of the rules is determined to be invalid and substitution of Community Health for Human Resources.
- Inclusion of updated references to the Official Code of Georgia Annotated throughout.

**RULES
OF
GEORGIA DEPARTMENT OF HUMAN
RESOURCES
PUBLIC HEALTH**

**CHAPTER 290-5-45
DISASTER PREPAREDNESS PLANS**

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290-5-45-.01 Definitions.

Unless a different meaning is required by the context, the following terms as used in these rules and regulations shall have the meaning hereinafter respectively ascribed to them:

- (a) "Approved Plan" means a Disaster Preparedness Plan which has been found by the Department to meet the requirements of these regulations;
- (b) "Board" means the Georgia Board of Human Resources;
- (c) "Commissioner" means the Commissioner of the Georgia Department of Human Resources or his designee;
- (d) "Department" means the Georgia Department of Human Resources;
- (e) "Disaster Preparedness Plan" or "Plan" means a written document which identifies, (1) potential hazards or events, that should they occur, would cause an emergency situation at the facility; and (2) proposes, for each identified emergency situation, a course of action so as to minimize the threat to health and safety of the patients or residents;

(f) "Facility" means any institution subject to licensure under the provisions of O.C.G.A. Chapter 31-7, Article 1; which is not exempted from the requirements of these rules and regulations;

(g) "Governing Body" means the Board of Directors or trustees, partnership, corporation, association, person or persons who are legally responsible for the facility's operation;

(h) "Provisionally Approved Plans" means a Disaster Preparedness Plan which lacks certain aspects but had been found by the Department to be in substantial compliance with these regulations.

Authority O.C.G.A. 31-7-3(c). **Administrative History.** Original Rule entitled "Definitions" was filed on May 9, 1984; effective June 7, 1984, as specified by the Agency.

290-5-45-.02 Exemptions.

The following facilities are exempt from these rules and regulations:

(a) Facilities classified and licensed by the Department as: "Family Personal Care Homes", "Freestanding Emergency Care Centers", "Home Health Agencies", and "Specimen Collection Centers" or "Health Testing Facilities."

(b) Institutions operated exclusively by the federal government or by any of its agencies.

(c) Public health services operated by the state, its counties or municipalities.

(d) Any hospital accredited by the Joint Commission on Accreditation of Hospitals (JCAH), or the American Osteopathic Association (AOA) may be exempted from submitting their Disaster Preparedness Plan for approval as long as the hospital's accreditation status is maintained. Hospitals losing accreditation shall immediately submit a copy of their Disaster Preparedness Plan for the approval.

Authority O.C.G.A. 31-2-4 (1982 Supp); and Chapt. 31-7, Art. 1. **Administrative History.** Original Rule entitled "Exemptions" was filed on May 9, 1984; effective June 7, 1984, as specified by the Agency.

290-5-45-.03 Disaster Preparedness Plan.

(1) Unless specifically exempted in Rule 290-545-.02, every facility shall have an approved or provisionally approved Disaster Preparedness Plan. Disaster Preparedness Plan rehearsals shall be regularly conducted with a minimum of two rehearsals in each calendar year.

(2) The governing body shall be responsible for the development of the plan. The governing body shall designate those individual(s) within the facility who have primary responsibility for rehearsal and implementation of the plan.

(3) Each facility must submit a proposed plan to the Department for approval. The initial plan shall be submitted no later than 90 days after the effective date of these rules.

(a) The facility shall submit one copy of the complete plan.

(b) The Department will notify the facility if the plan is approved.

(c) If the Department finds a plan lacks certain aspects but is still in substantial compliance with these regulations, the Department may grant provisional approval of the plan for a specified period of time and require the facility to submit a revised plan for approval.

(d) Anytime a revision is made in the facility's Disaster Preparedness Plan, a copy of the revised plan must be forwarded to the Department for approval.

(4) The Department may require a revised plan under certain conditions, including but not limited to: an increase or decrease in facility population or staff; additions or major renovations to the physical plant of the building; changes in the overall community

~~preparedness plan; or technological advancements which provide new warning and communications systems or sources.~~

~~Authority O.C.G.A. 31-7-3(e). **Administrative History.** Original Rule entitled "Disaster Preparedness Plan" was filed on May 9, 1984; effective June 7, 1984, as specified by the Agency.~~

290-5-45-.04 Content of Plan.

~~(1) The plan shall contain a section in which the unique needs of the facility's residents are identified and assessed.~~

~~(2) The plan shall contain a section which identifies the emergency situations to be addressed by the plan. As a minimum the following emergency situations shall be addressed:~~

~~(a) fire;~~

~~(b) explosion;~~

~~(c) unanticipated interruption of each utility used by the facility; i.e., electricity, gas, other fuel, water, etc.;~~

~~(d) loss of air conditioning or heat; and~~

~~(e) damage to physical plant resulting from severe weather, i.e., tornadoes, ice or snow storms, etc. Other emergencies or hazards may be included in the plan.~~

~~(3) For each of the emergencies identified in subsection (2) above, the plan shall include a set of emergency guidelines or procedures. A standardized format should be used throughout the plan that clearly describes how the emergency procedures should be carried out. The emergency procedures should answer the questions of "who, what, when, where, and how", and allow the facility to be ready to act effectively and efficiently in an emergency situation.~~

~~(4) The written procedures referred to in subsection (3) above should address as a minimum: assignment of responsibility to staff members; care of the residents; notification of attending physicians and other persons responsible for the resident; arrangements for transportation and hospitalization; availability of appropriate records; alternate living arrangements; and emergency energy sources.~~

~~(5) The plan must contain a section that outlines the frequency of rehearsal and the procedures to be followed during rehearsal. The rehearsal should be as realistic as possible and designed to check the following:~~

~~(a) knowledge of facility staff regarding their responsibility under the plan;~~

~~(b) the reliability of individuals or community agencies or services that are listed in the plan as resources to be called upon in the event of an emergency. However, the quest for realism in the rehearsal of the plan should not require the actual movement of nonambulatory patients/residents nor those whose physical or mental condition would be aggravated by a move.~~

~~(6) When portions of the facility's plan are contingent on services or resources of another agency, facility, or institution, the facility shall execute a written agreement with the other party or parties acknowledging their participation in the plan. Such agreement(s) shall be made a part of the plan.~~

~~Authority O.C.G.A. 31-7-3(e). **Administrative History.** Original Rule entitled "Content of Plan" was filed on May 9, 1984; effective June 7, 1984, as specified by the Agency.~~

~~290-5-45-.05 Records.~~

The facility shall maintain the following records and make them available to authorized Department employees upon request:

- (a) a copy of the plan and any subsequent changes thereto;
- (b) records of rehearsals of the plan;
- (c) records of incidences which required implementation of the plan.

Authority O.C.G.A. 31-7-3(c). **Administrative History.** Original Rule entitled "Records" was filed on May 9, 1984; effective June 7, 1984, as specified by the Agency.

~~290-5-45-.06 Scope of Regulations.~~

The rules as contained in this chapter expressly do not modify or revoke the provisions of any of the other rules of the Department of Human Resources which have been or will be promulgated under the authority of O.C.G.A. Chapter 31-7, Article 1.

Authority O.C.G.A. 31-7, Article 1. **Administrative History.** Original Rule entitled "Scope of Regulations" was filed on May 9, 1984; effective June 7, 1984, as specified by the Agency.

~~290-5-45-.07 Notice to the Department.~~

When an emergency situation occurs which dictates implementation of the plan and results in injury or loss of life, the Department shall be notified within 24 hours. Such notification may be verbal. In other emergency situations which dictate implementation of the plan a record shall be made including a written incident report and a written critique of the performance under the plan. These records shall be filed with the plan and made available to the Department during inspections of the facility.

Authority O.C.G.A. 31-7-3(e). **Administrative History.** Original Rule entitled "Notice to the Department" was filed on May 9, 1984; effective June 7, 1984, as specified by the Agency.

~~290-5-45-.08 Waivers and Variances.~~

The Department, upon petition, may grant variances or waivers of specific rules and regulations as provided for in O.C.G.A. 31-2-4, when it has been shown that the rule or regulation is not applicable or to allow experimentation and demonstration of new and innovative approaches to the delivery of services, or the center has met the intended purpose of the rule through equivalent standards, provided that the granting of the variance or waiver will not jeopardize the health, safety or care of the residents. The Department may establish conditions which must be met by the facility in order to operate under the variance or waiver.

Authority O.C.G.A. Secs. 31-2-4 and 31-7-3(e). **Administrative History.** Original Rule entitled "Waivers and Variances" was filed on May 9, 1984; effective June 7, 1984, as specified by the Agency.

~~290-5-45-.09 Enforcement.~~

A facility which fails to comply with these rules and regulations shall be subject to revocation of its permit or provisional permit and/or other sanctions provided by law. The enforcement and administration of these rules and regulations shall be as prescribed in O.C.G.A. Chapter 31-5, Enforcement and Administrative Procedure, which includes provisions for:

- (a) the misdemeanor penalty for violation of rules and regulations promulgated under Title 31;
- (b) injunctive relief under appropriate circumstances; and

(c) the due process requirements of notice, hearing and appeals.

Authority O.C.G.A. Secs. 31-5 and 31-7, Art. 1. **Administrative History.** Original Rule entitled "Enforcement" was filed on May 9, 1984; effective June 7, 1984, as specified by the Agency.

~~290-5-45-10 Severability.~~

In the event that any rule, sentence, clause or phrase of any of these rules and regulations may be construed by any court of competent jurisdiction to be invalid, illegal, unconstitutional, or otherwise unenforceable, such determination or adjudication shall in no manner affect the remaining rules or portions thereof, and such remaining rules or portions thereof shall remain of full force and effect, as if such rules or portions thereof so determined, declared or adjudged invalid or unconstitutional were not originally a part hereof. It is the intent of the Board of Human Resources to establish rules and regulations that are constitutional and enforceable so as to safeguard the health and well being of the people of the State.

Authority O.C.G.A. 31-7-3(e). **Administrative History.** Original Rule entitled "Severability" was filed on May 9, 1984; effective June 7, 1984, as specified by the Agency.

**RULES
OF
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RESOURCES
PUBLIC HEALTH
COMMUNITY HEALTH
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CHAPTER **290-5-45111-8-16**
DISASTER PREPAREDNESS PLANS**

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| **290-5-45111-8-16-01 Definitions.**

Unless a different meaning is required by the context, the following terms as used in these rules and regulations shall have the meaning hereinafter respectively ascribed to them:

- (a) "Approved Plan" means a Disaster Preparedness Plan which has been found by the Department to meet the requirements of these regulations;
- | (b) "Board" means the Georgia Board of Human ResourcesCommunity Health;
- | (c) "Commissioner" means the Commissioner of the Georgia Department of Human ResourcesCommunity Health or his designee;
- | (d) "Department" means the Georgia Department of Human ResourcesCommunity Health;
- (e) "Disaster Preparedness Plan" or "Plan" means a written document which identifies, (1) potential hazards or events, that should they occur, would cause an emergency situation at the facility; and (2) proposes, for each identified emergency situation, a course of action so as to minimize the threat to health and safety of the patients or residents;
- (f) "Facility" means any institution subject to licensure under the provisions of O.C.G.A. Chapter 31-7, Article 1; which is not exempted from the requirements of these rules and regulations;

(g) "Governing Body" means the Board of Directors or trustees, partnership, corporation, association, person or persons who are legally responsible for the facility's operation;

(h) "Provisionally Approved Plans" means a Disaster Preparedness Plan which lacks certain aspects but had been found by the Department to be in substantial compliance with these regulations.

Authority O.C.G.A. 31-7-3(c). **Administrative History.** Original Rule entitled "Definitions" was filed on May 9, 1984; effective June 7, 1984, as specified by the Agency.

290-5-45111-8-16-.02 Exemptions.

The following facilities are exempt from these rules and regulations:

(a) Facilities classified and licensed by the Department as: "Family Personal Care Homes", "Freestanding Emergency Care Centers", "Home Health Agencies", and "Specimen Collection Centers" or "Health Testing Facilities."

(b) Institutions operated exclusively by the federal government or by any of its agencies.

(c) Public health services operated by the state, its counties or municipalities.

(d) Any hospital accredited by the Joint Commission on Accreditation of Hospitals (JCAH), or the American Osteopathic Association (AOA) may be exempted from submitting their Disaster Preparedness Plan for approval as long as the hospital's accreditation status is maintained. Hospitals losing accreditation shall immediately submit a copy of their Disaster Preparedness Plan for the approval.

Authority O.C.G.A. 31-2-4 (1982 Supp); and Chapt. 31-7, Art. 1. **Administrative History.** Original Rule entitled "Exemptions" was filed on May 9, 1984; effective June 7, 1984, as specified by the Agency.

290-5-45111-8-16-.03 Disaster Preparedness Plan.

(1) Unless specifically exempted in Rule 290-545111-8-16-.02, every facility shall have an approved or provisionally approved Disaster Preparedness Plan. Disaster Preparedness Plan rehearsals shall be regularly conducted with a minimum of two rehearsals in each calendar year.

(2) The governing body shall be responsible for the development of the plan. The governing body shall designate those individual(s) within the facility who have primary responsibility for rehearsal and implementation of the plan.

(3) Each facility must submit a proposed to the Department for approval. ~~The initial plan shall be submitted no later than 90 days after the effective date of these rules.~~

(a) The facility shall submit one copy of the complete plan.

(b) The Department will notify the facility if the plan is approved.

(c) If the Department finds a plan lacks certain aspects but is still in substantial compliance with these regulations, the Department may grant provisional approval of the plan for a specified period of time and require the facility to submit a revised plan for approval.

(d) Anytime a revision is made in the facility's Disaster Preparedness Plan, a copy of the revised plan must be forwarded to the Department for approval.

(4) The Department may require a revised plan under certain conditions, including but not limited to: an increase or decrease in facility population or staff; additions or major renovations to the physical plant of the building; changes in the overall community preparedness plan; or technological advancements which provide new warning and communications systems or sources.

Authority O.C.G.A. 31-7-3(c). **Administrative History.** Original Rule entitled "Disaster Preparedness Plan" was filed on May 9, 1984; effective June 7, 1984, as specified by the Agency.

290-5-45111-8-16-04 Content of Plan.

(1) The plan shall contain a section in which the unique needs of the facility's residents are identified and assessed.

(2) The plan shall contain a section which identifies the emergency situations to be addressed by the plan. As a minimum the following emergency situations shall be addressed:

(a) fire;

(b) explosion;

(c) unanticipated interruption of each utility used by the facility; i.e., electricity, gas, other fuel, water, etc.;

(d) loss of air conditioning or heat; and

(e) damage to physical plant resulting from severe weather, i.e., tornadoes, ice or snow storms, etc. Other emergencies or hazards may be included in the plan.

(3) For each of the emergencies identified in subsection (2) above, the plan shall include a set of emergency guidelines or procedures. A standardized format should be used throughout the plan that clearly describes how the emergency procedures should be carried out. The emergency procedures should answer the

questions of "who, what, when, where, and how", and allow the facility to be ready to act effectively and efficiently in an emergency situation.

(4) The written procedures referred to in subsection (3) above should address as a minimum: assignment of responsibility to staff members; care of the residents; notification of attending physicians and other persons responsible for the resident; arrangements for transportation and hospitalization; availability of appropriate records; alternate living arrangements; and emergency energy sources.

(5) The plan must contain a section that outlines the frequency of rehearsal and the procedures to be followed during rehearsal. The rehearsal should be as realistic as possible and designed to check the following:

(a) knowledge of facility staff regarding their responsibility under the plan;

(b) the reliability of individuals or community agencies or services that are listed in the plan as resources to be called upon in the event of an emergency. However, the quest for realism in the rehearsal of the plan should not require the actual movement of nonambulatory patients/residents nor those whose physical or mental condition would be aggravated by a move.

(6) When portions of the facility's plan are contingent on services or resources of another agency, facility, or institution, the facility shall execute a written agreement with the other party or parties acknowledging their participation in the plan. Such agreement(s) shall be made a part of the plan.

Authority O.C.G.A. 31-7-3(c). **Administrative History.** Original Rule entitled "Content of Plan" was filed on May 9, 1984; effective June 7, 1984, as specified by the Agency.

290-5-45111-8-16-05 Records.

The facility shall maintain the following records and make them available to authorized Department employees upon request:

(a) a copy of the plan and any subsequent changes thereto;

(b) records of rehearsals of the plan;

(c) records of incidences which required implementation of the plan.

Authority O.C.G.A. 31-7-3(c). **Administrative History.** Original Rule entitled "Records" was filed on May 9, 1984; effective June 7, 1984, as specified by the Agency.

290-5-45111-8-16-06 Scope of Regulations.

The rules as contained in this chapter expressly do not modify or revoke the provisions of any of the other rules of the Department of **Human**

ResourcesCommunity Health which have been or will be promulgated under the authority of O.C.G.A. Chapter 31-7, Article 1.

Authority O.C.G.A. 31-7, Article 1. **Administrative History.** Original Rule entitled "Scope of Regulations" was filed on May 9, 1984; effective June 7, 1984, as specified by the Agency.

290-5-45111-8-16-.07 Notice to the Department.

When an emergency situation occurs which dictates implementation of the plan and results in injury or loss of life, the Department shall be notified within 24 hours. Such notification may be verbal. In other emergency situations which dictate implementation of the plan a record shall be made including a written incident report and a written critique of the performance under the plan. These records shall be filed with the plan and made available to the Department during inspections of the facility.

Authority O.C.G.A. 31-7-3(c). **Administrative History.** Original Rule entitled "Notice to the Department" was filed on May 9, 1984; effective June 7, 1984, as specified by the Agency.

290-5-45111-8-16-.08 Waivers and Variances.

The Department, upon petition, may grant variances or waivers of specific rules and regulations as provided for in O.C.G.A. ~~31-2-4~~, §31-2-7 when it has been shown that the rule or regulation is not applicable or to allow experimentation and demonstration of new and innovative approaches to the delivery of services, or the center has met the intended purpose of the rule through equivalent standards, provided that the granting of the variance or waiver will not jeopardize the health, safety or care of the residents. The Department may establish conditions which must be met by the facility in order to operate under the variance or waiver.

Authority O.C.G.A. Secs. ~~31-2-4~~ 31-2-7 and 31-7-3(c). **Administrative History.** Original Rule entitled "Waivers and Variances" was filed on May 9, 1984; effective June 7, 1984, as specified by the Agency.

290-5-45111-8-16-.09 Enforcement.

A facility which fails to comply with these rules and regulations shall be subject to revocation of its permit or provisional permit and/or other sanctions provided by law. The enforcement and administration of these rules and regulations shall be as prescribed in O.C.G.A. Chapter 31-5, Enforcement and Administrative Procedure, which includes provisions for:

(a) the misdemeanor penalty for violation of rules and regulations promulgated under Title 31;

(b) injunctive relief under appropriate circumstances; and

(c) the due process requirements of notice, hearing and appeals.

Authority O.C.G.A. Secs. 31-5 and 31-7, Art. 1. **Administrative History.** Original Rule entitled "Enforcement" was filed on May 9, 1984; effective June 7, 1984, as specified by the Agency.

290-5-45111-8-16-10 Severability.

In the event that any rule, sentence, clause or phrase of any of these rules and regulations may be construed by any court of competent jurisdiction to be invalid, illegal, unconstitutional, or otherwise unenforceable, such determination or adjudication shall in no manner affect the remaining rules or portions thereof, and such remaining rules or portions thereof shall remain of full force and effect, as if such rules or portions thereof so determined, declared or adjudged invalid or unconstitutional were not originally a part hereof. It is the intent of the Board of ~~Human Resources~~ Community Health to establish rules and regulations that are constitutional and enforceable so as to safeguard the health and well-being of the people of the State.

Authority O.C.G.A. 31-7-3(c). **Administrative History.** Original Rule entitled "Severability" was filed on May 9, 1984; effective June 7, 1984, as specified by the Agency.