

**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 proposed 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 REVISED RULE: Revision of the rules to comply with portions of House Bill 987, the “Disabled Adults and Elder Persons Protection Act of 2020,” pertaining to requirements for staffing and memory care services.

**DEPARTMENT OF COMMUNITY HEALTH
CHAPTER 111-8
HEALTHCARE FACILITY REGULATION**

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

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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, the provision of assisted self-preservation, and the provision of limited nursing services.

(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. the condition of the individual,
2. the assistance that is available to be provided to the individual by the staff of the assisted living community; and
3. 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) "Certificate" means a certificate issued by the department to operate a memory care center in a licensed assisted living community or personal care home.

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

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

(l) "Direct care staff person" means any employee, facility volunteer, or contract staff who provides to residents:

(i) any personal services, including but not limited to, medication administration or assistance, assistance with ambulation and transfer, and essential activities of daily living such as eating, bathing, grooming, dressing, and toileting; or

(ii) any other limited nursing services.

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

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

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

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

(q) "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.

(r) "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.

(s) "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.

(t) "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.

(u) "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.

(v) "Limited nursing services" means the assessment of the physical, mental, and emotional status to determine the appropriate level of care for an individual; the performance of health maintenance activities, as defined in division (a)(9)(C)(ii) of Code Section 43-26-12; and the provision of any nursing care within the direct care staff person's scope of practice that can be completed within seven days or intermittently.

(w) "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.

(x) "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.

(y) "Memory care center" means the freestanding or incorporated specialized unit that either:

(i) holds itself out as providing additional or specialized care to persons with diagnoses of probable Alzheimer's or other dementias or with cognitive deficits that may place the resident at risk; or

(ii) charges higher rates for care for residents with Alzheimer's or other dementias than for care to other residents.

(z) "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.

(aa) "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.

(bb) "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.

(cc) "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;
2. applies to operate or operates the business or agency;
3. maintains an office on the premises of the assisted living community;
4. resides at the assisted living community;
5. has direct access to persons receiving care at the assisted living community;
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.

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

(ee) "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.

(ff) "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.

(gg) "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.

(hh) "Physician" means an individual who is currently licensed to practice medicine in the State of Georgia. For purposes of these rules, it shall be acceptable for any activities required to be performed by a physician to be performed by any other licensed medical professional (i.e., Nurse Practitioner, Physician Assistant, etc.) who is permitted to perform such activities under applicable state scope of practice rules and regulations.

(ii) "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.

(jj) "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.

(kk) "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.

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

(mm) "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.

(nn) "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.

(oo) "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.

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

Authority: O.C.G.A. §§ 31-2-7, 31-2-8, 31-2-9, 31-7-1, 31-7-12.2 and 43-26-12.

111-8-63-.05 Application for Permit

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

ownership must be disclosed in the application, as well as the registered agent for service of process.

(7) Each application must include documentation of ownership or lease agreement for the property on which the assisted living community will be operated.

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

(9) Local zoning and other local requirements regarding the proper location and establishment of the assisted living community must be addressed by the applicant with the responsible local officials.

(10) The initial application for licensure shall include a financial stability affidavit from a certified public accountant affirming the applicant's ability to operate as a going concern for the next two years.

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

111-8-63-.07 Owner Governance

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

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

are developed must provide direction for the staff and residents on the following:

- (a) the services available in the assisted living community, including, personal services, assisted living care, memory care services and any other specialized services such as memory care centers and designated proxy caregivers;
- (b) the staffing plan that the community utilizes to ensure that staffing ratios increase proportionally as the number of residents who require assisted self-preservation increases;
- (c) admissions, discharges and immediate transfers which ensure that the community does not admit or retain residents who need more care that the assisted living community is authorized or capable of providing;
- (d) refunds when a resident is transferred or discharged;
- (e) training and ongoing evaluation of staff, including specialized training if designated proxy caregivers are provided or memory care is offered;
- (f) house rules and their enforcement;
- (g) protecting the rights of the residents as set forth in these rules;
- (h) medication management, procurement, the use of certified medication aides and professional oversight provided for such services;
- (i) health and hygiene issues for residents and staff relating to infection control, work policies and return to work policies, food borne illnesses and reportable diseases;
- (j) the investigation and reporting of abuse, neglect, exploitation of residents, residents' wandering away from the community, accidents, injuries and changes in residents' conditions to required parties;

- (k) discipline procedures for handling acts committed by staff which are inconsistent with the policies of the assisted living community;
 - (l) emergency preparedness, drills and evacuation requirements;
 - (m) quality assurance review mechanisms, including resident and family feedback to determine opportunities for improving care;
 - (n) the use of volunteers and their orientation regarding resident's rights and basic safety precautions;
 - (o) the specific use of proxy caregivers allowed within the community and the oversight of proxy caregivers the community requires or provides in accordance with Georgia law, these rules and the rules for proxy caregivers, Chapter 111-8-100; and
 - (p) the safety and security precautions that will be employed by the assisted living community to protect residents from harm by other residents, designated proxy caregivers, and other individuals, not employed by the community who routinely come into the community.
- (3) The governing body must designate an administrator or on-site manager as responsible for the overall management of the assisted living community and for carrying out the rules and policies adopted by the governing body.
- (4) The governing body must ensure that the Department has current emergency contact information consisting of name, e-mail contact for notifications to the licensed community, physical addresses, and phone numbers for the governing body and the administrator or on-site manager of the assisted living community.
- (5) The governing body must take appropriate measures within its control, to protect the residents from criminal activity occurring in the assisted living community.

(6) The governing body must not allow persons who are not residents of the assisted living community to live on the premises if they are listed on the National Sex Offender Registry.

(7) No member of the governing body, administration, or staff of the assisted living community or an affiliated assisted living community or family members of the governing body or any staff may serve as the legal surrogate or representative of a resident.

(8) Where the governing body, a member of the governing body's family or a staff member of the assisted living community or an affiliated assisted living community serves as the representative payee of a resident, the individual or entity must be covered by a surety bond.

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

(10) Notification of Bankruptcy, Eviction or Change of Ownership. The community must provide:

(a) a minimum of sixty (60) days written notice to the department and all residents of any impending bankruptcy or property eviction that may force discharge or relocation of residents or otherwise adversely impact the provision of safe care and oversight; and

(b) a minimum of thirty (30) days written notice to the department and all residents of any impending change of ownership. The notice to the department shall be in the form of an application which must be approved before the permit is issued to the new owner(s).

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

111-8-63-.08 Community Leadership

- (1) Each community must have a full-time administrator to provide day-to-day leadership to the community. The administrator must be 21 years of age or older and hold a valid license from the State Board of Long-Term Care Facility Administrators with an effective date no greater than sixty (60) days from the date of hire or July 1, 2021, whichever is later.
- (2) The administrator is responsible for ensuring that the policies and procedures are effective and enforced to ensure compliance with these rules and community policies and procedures.
- (3) Each assisted living community must have a separate administrator or on-site manager who works under the supervision of the administrator.
- (4) The administrator or on-site manager must designate qualified staff as responsible staff to act on his or her behalf and to carry out his or her duties in the absence of the administrator or on-site manager.
- (5) Residents must not be allowed to function or be counted as staff.
- (6) Staff must be assigned duties consistent with their positions, training, experiences, and the requirements of Rule 111-8-63-.09.
- (7) The administrator is responsible for ensuring that the assisted living community has an effective quality assurance program which includes at least the following:
 - (a) investigating resident incidents which result in injuries or death in order to identify and implement opportunities for improvement in care;

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

Authority: O.C.G.A. §§ 31-2-7, 31-2-8, 31-7-1 et seq. and 43-27-1 et seq.

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 two staff who have completed the minimum training requirements of Rule 111-8-63-.09(2)(a) through (d) and (3)(a) through (e) above must be present in the assisted living community at all times any residents are

present, with at least one staff person on each occupied floor, 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. 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.

(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.

(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 111-8-12.

(13) **Criminal History Background Checks for Direct Access Employees Required.** Prior to serving as a direct access employee, 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.

(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;
- (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 an average monthly 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 20 residents during non-waking hours where the residents have minimal care needs. Average monthly minimum staffing levels shall be calculated and documented by the community using methods and forms specified by the department. 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 two on-site direct care staff persons must be on the premises 24 hours per day providing supervision whenever residents are present, with at least one staff person on each occupied floor.

(c) A registered professional nurse or licensed practical nurse must be on-site to support care and oversight of the residents, as follows:

(i) For communities with one to 30 residents, a minimum of 8 hours per week;

(ii) For communities with 31 to 60 residents, a minimum of 16 hours per week;

(iii) For communities with 61 to 90 residents, a minimum of 24 hours per week;

(iv) For communities with more than 90 residents, a minimum of 40 hours per week;

(d) 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. 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 on file with the Department when the Department makes available a system for the submission and collection of such information electronically.
- (7) 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) 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) Only an assisted living community licensed pursuant to these rules may hold itself out as offering assisted living care.
- (10) No memory care center shall be operated and no residents admitted without a certificate which is current under these rules and regulations.

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

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

- (1) The assisted living community must provide assisted living, including protective care and watchful oversight, which meets the needs of the residents it admits and retains.
- (2) **Resident Needs Assessment.** The assisted living community must complete an assessment of the resident that addresses the resident's care needs taking into account the resident's family supports, the resident's functional capacity

relative to the activities of daily living, physical care needs, medical information provided, cognitive and behavioral impairments, if any, and personal preferences relative to care needs.

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

- (a) a description of the resident's care and social needs and the services to be provided, including frequency to address care and social needs;
- (b) resident's particular preferences regarding care, activities and interests;
- (c) specific behaviors to be addressed with interventions to be used;
- (d) any physician order or order of a nurse practitioner or physician assistant working under protocol or job description, respectively for assistive devices;
- (e) staff primarily responsible for implementing the care plan;
- (f) evidence of family involvement in the development of the plan when appropriate; and
- (g) evidence of the care plan being updated at least annually and more frequently where the needs of the resident change substantially or the resident is assigned to a memory care center.

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

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

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

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

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

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

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

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

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

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

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

Rule 111-8-63-.18 Precautions for Residents at Risk of Elopement

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

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

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

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

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

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

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

Rule 111-8-63-.19 Additional Requirements for Certified Memory Care Centers

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

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

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

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

1. multipurpose room(s) for dining, group and individual activities which are appropriately furnished to accommodate the activities taking place;
2. secured outdoor spaces and walkways which are wheel chair accessible and allow residents to ambulate safely but prevent undetected egress;
3. high visual contrast between floors and walls and doorways and walls in resident use areas-except for fire exits, door and access ways which may be designed to minimize contrast to conceal areas where the residents should not enter;
4. adequate and even lighting which minimizes glare and shadows;
5. the free movement of the resident, as the resident chooses, between the common space and the resident's own personal space in a bedroom that accommodates no more than two (2) residents;
6. individually identified entrances to residents' rooms to assist residents in readily identifying their own personal spaces;
7. an effective automated device or system to alert staff to individuals entering or leaving the center in an unauthorized manner. An assisted living community need not use an automated alert for an exit door when the particular exit is always staffed by a receptionist or other staff member who views and maintains a log of individuals entering and leaving the assisted living community. If the exit door is not always staffed, then the assisted living community must activate an automated alert when the door is not attended;
8. communication system(s) which permit staff in the center to communicate with other staff outside the center and with emergency services personnel as needed; and
9. a center providing specialized memory care services which undergoes major renovation or is first constructed after December

9, 2009, must be designed and constructed in compliance with applicable state and local building and fire codes relevant to the center and the assisted living community.

(c) **Staffing Requirements.** The assisted living community must ensure that the memory care center is staffed with sufficient specially trained staff to meet the unique needs of the residents in the center. At a minimum, the memory care center must provide the following staffing:

(i) One dementia trained direct care staff person for every 12 residents on-site during all waking hours and for every 15 residents on-site during all nonwaking hours based on a monthly average; provided, however, that such ratio is adequate to meet the needs of the residents;

(ii) One registered professional nurse, licensed practical nurse, or certified medication aide on-site at all times;

(iii) Two direct care staff persons on-site at all times, with at least one on each occupied floor; and

(iv) One registered professional nurse or licensed practical nurse on-site or available in the building at all times as follows:

(A) For memory care centers with one to 12 residents, a minimum of 8 hours per week;

(B) For memory care centers with 13 to 30 residents, a minimum of 16 hours per week;

(C) For memory care centers with 31 to 40 residents, a minimum of 24 hours per week; or

(D) For memory care centers with more than 40 residents, a minimum of 40 hours per week.

(d) **Staff Training Requirements.** The community shall ensure that all staff are properly trained initially and on an annual basis to

provide safe, quality care to residents in the memory care center. The memory care center shall meet the following training requirements:

(i) General Orientation. All staff, regardless of role, shall receive at least four (4) hours of dementia-specific orientation within the first thirty (30) days of working in the center. Such orientation shall include:

(A) Basic information about the nature, progression, and management of Alzheimer's and other dementias;

(B) Techniques for creating an environment that minimizes challenging behavior from residents with Alzheimer's and other dementias;

(C) Methods of identifying and minimizing safety risks to residents with Alzheimer's and other dementias; and

(D) Techniques for successful communication with individuals with Alzheimer's and other dementias.

(ii) Direct Care Orientation. All direct care staff shall receive initial orientation training within the first thirty (30) days of caring for residents independently that, at a minimum, includes:

(A) General training, to include:

(I) Development, updating, and implementation of comprehensive and individual service plans;

(II) Skills for recognizing physical or cognitive changes in the resident that warrant seeking medical attention;

(III) Residents' rights and identification of conduct constituting abuse, neglect, or exploitation;

(IV) General infection control principles;

(V) Emergency preparedness training;

(VI) Emergency first aid;

(VII) Cardiopulmonary resuscitation.

(B) A minimum of sixteen (16) hours of specialized, competency-based training using forms specified by the department, to include, at a minimum:

(I) The nature of Alzheimer's and other dementias;

(II) The center's philosophy related to the care of residents with Alzheimer's and other dementias;

(III) The center's policies and procedures related to care of residents with Alzheimer's and other dementias;

(IV) Common behavior problems characteristic of residents with Alzheimer's and other dementias;

(V) Positive therapeutic interventions and activities;

(VI) Skills for maintaining the safety of the resident; and

(VII) The role of the family in caring for residents with Alzheimer's and other dementias.

(iii) Ongoing Training. Direct care staff shall complete a minimum of eight (8) hours of specialized training in dementia care on an annual basis.

(iv) Training Documentation. The memory care center shall maintain documentation reflecting course content, instructor qualifications, agenda, and attendance rosters for all training sessions provided.

(e) **Special Admission Requirements for Memory Center Placement.** Residents must have a physician's report of physical

examination completed within 30 days prior to admission to the center on forms made available by Department. The physical examination must clearly reflect that the resident has a diagnosis of probable Alzheimer's Disease or other dementia and has symptoms which demonstrate a need for placement in the center. However, the center may also care for a resident who does not have a probable diagnosis of Alzheimer's Disease or other dementia, but desires to live in this center and waives his or her right to live in a less restrictive environment. In addition, the physical examination report must establish that the potential resident of the center does not require 24-hour skilled nursing care.

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

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

(h) **Therapeutic Activities.** The unit shall provide activities appropriate to the needs of the individual residents and adapt the activities, as necessary, to encourage participation of the

residents in the following at least weekly with at least some therapeutic activities occurring daily:

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

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

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

Rule 111-8-63-.23 Infection Control, Sanitation and Supplies

(1) The assisted living community must have an effective infection control program which includes, at a minimum, the following:

- (a) training provided to staff on effective measures for minimizing the spread of infections and food borne illnesses;
- (b) responding to disease outbreaks appropriately and participating in infection control investigations;

- (c) staff demonstrating their understanding and use of proper infection control practices in their delivery of care to the residents;
 - (d) enforcing work and return to work policies to minimize the spread of infection and illnesses; and
 - (e) implementing the additional infection control requirements set forth in the Rules and Regulations for Disaster Preparedness Plans, Chapter 111-8-16, regarding pandemic plans, supplies and policies and procedures.
- (2) The assisted living community must have an adequate supply of sanitizing and cleaning agents, e.g.. effective hand hygiene products, hand soap, laundry soap, household disinfectants and other cleaning materials, available and used in the assisted living community to minimize the spread of infections.
 - (3) Toilet tissue, soap, hot and cold running water and clean towels must be available for use wherever commodes are located.
 - (4) The assisted living community must have a supply of first-aid materials available for use. This supply must include, at a minimum, gloves, band aids, thermometer, tape, gauze, and an antiseptic.
 - (5) The storage and disposal of bio-medical and hazardous wastes must comply with applicable federal, state, and local rules and/or standards.
 - (6) Solid waste which is not disposed of by mechanical means must be stored in vermin-proof, leak-proof, nonabsorbent containers with close-fitting covers until removed. Waste must be removed from the kitchen at least daily and from the premises at least weekly.
 - (7) An insect, rodent or pest control program must be maintained and conducted in a manner which continually protects the health of residents.

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

(9) The assisted living community must clean the residents' private living spaces periodically and as needed to ensure that the space does not pose a health hazard.

(10) The assisted living community must notify residents of infectious disease outbreaks or incidents as specified in the Rules and Regulations for Disaster Preparedness Plans, Chapter 111-8-16.

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