GEORGIA DEPARTMENT
OF COMMUNITY HEALTH

Nathan Deal, 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 interpretive rules or general statements of policy. Accordingly, the Department hereby provides notice of its intent to amend the **Rules and Regulations for Disaster Preparedness Plans, Chapter 111-8-16.** These changes 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 **October 17, 2017** at **10:00 a.m.**, at the Department of Community Health (2 Peachtree Street, N.W., Atlanta, Georgia 30303) in the 5th Floor Board Room. Oral comments may be limited to 10 minutes per person. Individuals who are disabled and need assistance to participate during this meeting should contact the Office of General Counsel at (404) 657-7195 at least three (3) business days prior to the meeting.

Citizens wishing to comment in writing on any of the proposed changes should do so on or before October 20, 2017. Comments may be faxed to (404) 656-0663, emailed to renee.robinson@dch.ga.gov or mailed to the following address:

Attention: Office of General Counsel
Georgia Department of Community Health
Post Office Box 1966
Atlanta, Georgia 30301

Comments from written and public testimony will be provided to the Board of Community Health prior to the November 9, 2017 Board meeting. The Board will vote on the proposed changes at the Board meeting to be held at 10:30 a.m. on November 9, 2017 at the Georgia Department of Community Health (2 Peachtree Street, N.W., Atlanta, Georgia 30303 in the 5th Floor Board Room).

NOTICE IS HEREBY GIVEN THIS 14th DAY OF September, 2017.

Frank W. Berry, Commissioner

Attachments

RULES OF
GEORGIA DEPARTMENT OF COMMUNITY HEALTH
HEALTHCARE FACILITY REGULATION DIVISION
REVISE CHAPTER 111-8-16
RULES AND REGULATIONS FOR DISASTER PREPAREDNESS PLANS

SYNOPSIS OF PROPOSED RULE CHANGES

STATEMENT OF PURPOSE: The Georgia Department of Community Health proposes to revise the Rules and Regulations for Disaster Preparedness Plans, Chapter 111-8-16. These changes are being proposed pursuant to the authority granted the Department of Community Health in O.C.G.A. § 31-6-21 and O.C.G.A. § 31-6-21.1.

MAIN FEATURE OF THE PROPOSED RULE: Revision of the rule to create exemptions for facilities that are subject to the new federal rules for emergency preparedness and to require that non-exempt facilities utilize some of the resources developed by the Department of Public Health to assist in disaster planning.

RULES
OF
DEPARTMENT OF COMMUNITY HELTH

CHAPTER 111-8
HEALTHCARE FACILITY REGULATION

111-8-16
DISASTER PREPAREDNESS PLANS

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Chapter 111-8-16
DISASTER PREPAREDNESS PLANS

Rule 111-8-16-.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 Community Health;

(c) "Commissioner" means the Commissioner of the Georgia Department of Community Health or his designee;

(d) "Department" means the Georgia Department of Community 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.~~

Rule 111-8-16-.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) Health care facilities which are certified by the Centers for Medicare and Medicaid Services (CMS) for participation in the Medicare program.

(~~e~~d) Any health care facility~~ospital~~ accredited by a CMS-approved ~~the Joint Commission on~~ Accreditation Organization (AO), ~~of Hospitals (JCAH), or the American Osteopathic Association (AOA) may be exempted from submitting their Disaster Preparedness Plan for approval~~ as long as the facility~~hospital~~'s accreditation status is maintained. Facilities~~Hospitals~~ losing accreditation shall immediately be subject to these rules~~submit a copy of their Disaster Preparedness Plan for the approval~~.

Rule 111-8-16-.03 Disaster Preparedness Plan

(1) Unless specifically exempted in Rule 111-8-16-.02, every facility shall have a ~~n approved or provisionally approved~~ Disaster Preparedness Plan which meets the requirements of Rule 111-8-16-.04. 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) The facility shall designate staff to participate in the healthcare coalition for their region, as designated by the Department of Public Health (DPH). Participation in the coalition shall include:~~Each facility must submit a proposed to the Department for approval.~~

(a) Initiation and maintenance of an account with the web-based emergency operations center managed by DPH or its contractor, agent or designee;

(b) Evidence of participation, at least annually, in communication drills with the coalition and/or attendance at coalition meetings; and

(c) Evidence of contact, at least annually, with the local emergency management agency coordinator for the area in which the facility is located.

~~(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 facility shall review the plan at least annually and make appropriate updates. The Department shall~~may~~ require a revised plan under the following circumstances:~~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.~~

(a) A 10% or greater increase in the number of patients or residents at the facility;

(b) A change in evacuation strategy that requires different contractual arrangements for the facility;

(c) Additions or major renovations to the physical plant of the building; or

(d) Technological advancements which provide new warning and communications systems or sources.

Rule 111-8-16-.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.

Rule 111-8-16-.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.

Rule 111-8-16-.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 Community Health which have been or will be promulgated under the authority of O.C.G.A. Chapter 31-7, Article 1.

Rule 111-8-16-.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.

Rule 111-8-16-.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. § 31-2-7 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.

Rule 111-8-16-.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.

Rule 111-8-16-.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 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.