



PUBLIC NOTICE OF PROPOSED RULE CHANGES

Pursuant to the Georgia Administrative Procedures Act, Official Code of Georgia (O.C.G.A.) § 50-13-1, et seq., the Georgia Department of Community Health is required to provide public notice of its intent to adopt, amend, or repeal certain rules other than interpretative rules or general statements of policy. Accordingly, the Department hereby provides notice of its intent to adopt the Ga. Comp. Rules and Regs., R. 111-8-56, Rules and Regulations for the Nursing Homes. These rules are being proposed pursuant to the authority granted to the Department in O.C.G.A. §§ 31-2-5 and 31-2-7. An exact copy of the rule and a synopsis of the rule are attached to this public notice.

NOTICE OF PUBLIC HEARING

An opportunity for public comment will be held on Tuesday, November 16, 2021 at 10:00 a.m. via WebEx audio. There will be no in-person attendance at the Department of Community Health. Follow these instructions to join the event:

1. Copy the following link to a browser:
<https://dchevents.webex.com/dchevents/j.php?MTID=m82089a5255e83cd7164d94eec04833ee>
2. Click "Join Now"

Event number: 2559 816 4561
Event password: Open (6736 from phones)

To join by phone
1-650-479-3207 Call-in toll number (US/Canada)
Access code: 255 981 64561

Oral comments may be limited to ten (10) minutes per person. Individuals who are disabled and require assistance to participate during this meeting should contact the Office of General Counsel at (470) 259-0735 at least three (3) business days prior to the meeting.

Individuals wishing to comment in writing on any of the proposed changes should do so on or before 5:00 p.m. on Friday, November 19, 2021. Due to reduced physical staffing at the 2 Peachtree St. location in an attempt to limit the amount of exposure to COVID-19, DCH encourages written public comments submitted in accordance with O.C.G.A. 50-13-4(a)(2) to be submitted via email to the following e-mail address: Public.Comment@dch.ga.gov.



**GEORGIA DEPARTMENT
OF COMMUNITY HEALTH**

Any comments not able to be submitted via e-mail may be submitted via regular mail to the following address:

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

Comments from written and public testimony will be provided to the Board of Community Health prior to December 9, 2021. The Board will vote on the proposed changes on Thursday, December 9, 2021.

NOTICE IS HEREBY GIVEN THIS 14th DAY OF OCTOBER, 2021



Ryan Loke, Deputy Commissioner & Chief Health Policy Officer

RULES OF
GEORGIA DEPARTMENT OF COMMUNITY HEALTH
HEALTHCARE FACILITY REGULATION DIVISION

CHAPTER 111-8-56
RULES AND REGULATIONS FOR NURSING HOMES

SYNOPSIS OF REVISED RULES

STATEMENT OF PURPOSE: The Georgia Department of Community Health proposes to revise the Rules and Regulations for Nursing Homes, Chapter 111-8-56. 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 State Bill 215 pertaining to regulation of hospitals and related institutions, so as to authorize certified medication aides to administer certain medications to nursing home residents under certain circumstances, to provide criteria and requirements for ongoing medication training and the prohibition of narcotics administration by such certified medication aides.

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

**CHAPTER 111-8-56
RULES AND REGULATIONS FOR NURSING HOMES**

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111-8-56-.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 hereafter respectively ascribed to them; except, however, same do not apply to nursing homes owned or operated by the Federal Government:

(a) "Nursing Home" is a facility which admits patients on medical referral only and for whom arrangements have been made for continuous medical supervision; it maintains the services and facilities for skilled nursing care, rehabilitative nursing care, and has a satisfactory agreement with a physician and dentist who will be available for any medical and/or dental emergency and who will be responsible for the general medical and dental supervision of the home; it otherwise complies with these rules and regulations;

(b) "Skilled Nursing Care" means the application of recognized nursing methods, procedures, and actions directed toward implementation of the physician's prescribed therapeutic and diagnostic plan, detection of changes in the human body's regulatory system, preservation of such body defenses, prevention of complications, and promotion of emotional well-being, including but not limited to the following:

1. The administration of oral or injectable medications which cannot be self-administered. Other examples include the administration of oxygen, the use of suction, the insertion or changing of catheters, the application of medicated dressings, the use of aseptic technique and preparation of the patient for special procedures;

2. Observation in the care of the patient for symptoms and/or physical and mental signs that may develop and which will require attention of the physician and a revision in the patient's treatment regimen.

(c) "Rehabilitative Nursing" means the use of nursing skills and techniques to combat deformities and helplessness, to maintain or restore body functions, and to promote independence in self-care. Such techniques will include but not be limited to the following:

1. Positioning patients in or out of bed to maintain good body alignment (unless contraindicated by physician's orders), the use of range of motion exercises to maintain joint mobility;

2. Arranging a progression of self-care activities such as transfer and walking, and attention to bowel and bladder schedules together with retraining when indicated.

(d) The term "Distinct Part" means a physically identifiable unit of a medical facility such as an entire ward or contiguous wards, wing, floor, or building. It consists of all beds and related facilities in the unit;

(e) The term "Nursing Unit" means the number of patient beds assigned to a nurses' station;

(f) The term "Nurses' Station" means a circumscribed location containing communication and recording tools and equipment essential for the operation of nursing services;

(g) The terms "Patient" and "Resident" mean any person residing in and receiving care or treatment in a nursing home;

(h) The terms "Patient Care Plan" or "Plan of Care" mean a personalized daily plan of care indicating what care is needed,

how it can be best accomplished for each patient, how each patient likes things done, what methods and approaches are most successful, and what modifications are necessary to ensure best results;

(i) The term "Patient Activities Program" means a schedule of events which are regularly planned and available for all patients, including social and recreational activities involving active participation by the patient, entertainment of appropriate frequency and character, and opportunities for participation in community activities as possible and appropriate;

(j) The term "Transfer Agreement" means a written contract with other facilities providing for transfer of patients between the facilities and for interchange of medical and other information when the facility cannot provide the level of care needed by the patient;

(k) "Physician" shall mean a doctor of medicine and/or a doctor of osteopathy duly licensed to practice in this State by the Composite State Board of Medical Examiners, under the provision of the Georgia Medical Practice Act, O.C.G.A. § [43-34-20](#) *et seq.*;

(l) "Dentist" means any person who is licensed to practice in this State under the provisions of the Dentists and Dental Hygienists Act;

(m) "Pharmacist" shall mean an individual licensed to practice pharmacy in accordance with the provisions of O.C.G.A. § [26-4-1](#) *et seq.*;

(n) "Physical Therapist" shall mean an individual who practices physical therapy, and who is registered with the Board of Physical Therapy of the State of Georgia, O.C.G.A. § [43-33-1](#) *et seq.*;

(o) A "Registered Nurse" is a person who holds a current and valid license as a registered nurse issued by the State of Georgia;

(p) A "Licensed Undergraduate Nurse" is a person who holds a current and valid license as a licensed undergraduate nurse issued by the State of Georgia;

(q) A "Licensed Practical Nurse" is a person who holds a current and valid license as a licensed practical nurse by the State of Georgia;

(r) The term "Full-time Employee" means any person employed who normally works forty (40) hours per week in the home;

(s) The term "Governing Body" means the Board of Trustees, the partnership, the corporation, the association, the person or group of persons who maintain and control the home and who is legally responsible for the operation;

(t) The term "Administrator" means an individual who is licensed by the Georgia State Board of Nursing Home Administrators and who has the necessary authority and responsibility for management of the home;

(u) "Permit" means authorization by the Department to the Governing Body to operate a home and signifies satisfactory compliance with these rules and regulations;

(v) "Provisional Permit" means authorization by the Department to the Governing Body to operate a home on a conditional basis for a period not to exceed six months to allow a newly established home a reasonable but limited period of time to demonstrate operational procedures in satisfactory compliance with these rules and regulations; or to allow an existing home a reasonable length of time to comply with these rules and regulations, provided said home shall first present a plan of improvement acceptable to the Department. Successive Provisional Permits may be granted to any home having deficiencies only in exceptional cases, in which cases the Governing Body must present a plan of improvement acceptable to the Department;

(w) The term "Plan of Improvement" means a written plan submitted by the Governing Body and acceptable to the

Department. The plan shall identify the existing noncompliance of the institution, the proposed procedures, methods, means and period of time to correct the noncompliance;

(x) The term "Board" means the Board of Community Health of the State of Georgia;

(y) The term "Department" means the Department of Community Health of the State of Georgia;

(z) The term "Commissioner" means the chief executive of the Department.

(aa) The term "Dining Assistant" means an individual employed or compensated by the nursing home, or who is used under an arrangement with another agency or organization, to provide assistance with feeding and hydration to residents in need of such assistance. Such individual shall not provide other personal care or nursing services unless certified as a nurse aide or licensed as a registered nurse or practical nurse.

(bb) "Certified Medication Aide" is a person who is a Georgia certified nurse aide and in good standing with the Department who has successfully completed a state-approved medication aide training program, successfully passed a written competency examination and has demonstrated the requisite clinical skills to serve as a medication aide and who is registered on the Georgia Certified Medication Aide Registry.

Authority: O.C.G.A. § 31-7-1 et seq.

Rule 111-8-56-.03 Administration

(1) Each nursing home shall be under the supervision of a licensed nursing home administrator. An administrator may serve as the administrator of not more than one facility, except that two facilities having common ownership or management located on

the same premises may be served by a single administrator. Distinct part facilities sharing a common roof shall be considered one facility. In exceptional circumstances, a waiver may be granted by the Department for a period of six months. Existing facilities not currently meeting this requirement would be exempt for a period of two years from the effective date of this regulation. If an existing facility should undergo a change of administrators during this two-year period, such facility would be required to comply with the regulations.

(2) Each home shall be operated in accordance with policies approved by the Department. These policies shall include but not be limited to those governing admissions, transfers, discharges, physicians' services, nursing services, dietary services, restorative services, pharmaceutical services, diagnostic services, social services, environmental sanitation services, recreational services and clinical records.

(3) Each home shall have a written transfer agreement in effect with one or more hospitals. Nursing homes that are a Distinct Part of a hospital will be considered to meet this requirement if acceptable provisions for the transfer of patients are included in the facility's policies.

(4) There shall be a separate personnel folder maintained for each employee. This folder shall contain all personal information concerning the employee, including the application and qualifications for employment, physical examination and job title assigned. A current job description shall be available for each classification of employee, but may be maintained separately from the personnel folder. The nursing home shall also maintain all documentation of successful completion of the entire certified medication aide training program for each certified medication aide it employs. In addition to all other documents required by state or federal regulations, the nursing home shall maintain documentation of successful completion of the dining assistant training program for each dining assistant.

(5) The home and its premises shall be used only for the purposes for which the home is operated and permitted.

(6) Each home shall, as a condition precedent to obtaining or maintaining a permit to operate a nursing home, carry or be covered by liability insurance coverages or establish or have established for its benefit a self-insurance trust for a nursing home claim. If a home fails to carry or be covered by liability insurance coverages or establish or have established for its benefit a self-insurance trust for a nursing home claim, the Department shall provide notice to such home of its noncompliance and allow such home 60 days in which to comply. A home's failure to maintain such coverage or establish such trust shall result in the Department:

(a) Revoking such home's permit issued to operate the nursing home;

(b) Denying any application to renew such permit; and

(c) Denying any application for a change of ownership of the nursing home.

(7) In response to a reasonable request by a patient or visitor, privacy shall be afforded for conversation and/or consultations.

Authority: O.C.G.A. § 31-7-1 et seq.

Rule 111-8-56-.04 Nursing Services

(1) A registered nurse shall be employed full time as director of nursing services. She shall not also be the administrator.

(2) The director of nursing services shall normally be employed on the daytime shift and shall devote full time to the administration of the nursing service which includes a reasonable amount of time with all nursing shifts.

(3) The director of nursing services may also serve as the director of nursing services in another facility in close proximity to

the home provided she has a registered nurse assistant who is assigned to each facility full time as supervisor of nursing care. The director's assistant shall devote full time to the supervision of nursing care.

(4) There shall be at least one nurse, registered, licensed undergraduate, licensed on duty and in charge of all nursing activities during each eight-hour shift.

(5) A nursing home may employ certified medication aides for the purpose of performing the technical aspects of the administration of certain medications in accordance with O.C.G.A. § 31-7-12.7. A nursing home shall not employ an individual as a certified medication aide unless such individual is listed in the medication aide registry established and maintained by the Department pursuant to paragraph (2) of subsection (g) of O.C.G.A. § 31-7-12.2, and is in good standing with the Department, and has met all of the qualifications in paragraph (3) of subsection (g) of O.C.G.A. § 31-7-12.2.

(a) A certified medication aide who meets the criteria established in O.C.G.A. § 31-7-12.7 shall be permitted to perform the following tasks in a nursing home in accordance with the written instructions of a physician:

- i. Administer physician ordered oral, ophthalmic, topical, otic, nasal, vaginal, and rectal medications;
- ii. Administer insulin, epinephrine, and B12 pursuant to physician direction and protocol;
- iii. Administer medications via a metered dose inhaler;
- iv. Conduct finger stick blood glucose testing following established protocol;
- v. Administer a commercially prepared disposable enema as ordered by a physician; and
- vi. Assist residents in the supervision of self-administration of medications.

(b) A certified medication aide shall record in the medication administration record all medications that such certified medication aide has personally administered to a resident of a nursing home and any refusal of a resident to take a medication. A certified medication aide shall observe a resident to whom a medication has been administered and shall report any changes in the condition of such resident to a charge nurse.

(c) All medications administered by a certified medication aide in accordance with O.C.G.A. § 31-7-12.7 shall be in unit or multidose packaging.

(d) Nothing in this rule or O.C.G.A. § 31-7-12.7 shall authorize certified medication aides employed by a nursing home to administer any Schedule II controlled substance that is a narcotic.

(e) A nursing home that employs one or more certified medication aides to administer medications in accordance with O.C.G.A. § 31-7-12.7 shall secure the services of a licensed pharmacist to perform the following duties as part of the nursing home's peer review, medical review, and quality assurance functions:

(i) Perform a quarterly review of the drug regimen of each resident of the nursing home and report any irregularities to the nursing home administrator;

(ii) Remove for proper disposal any drugs that are expired, discontinued, in a deteriorated condition, or when the resident for whom such drugs were ordered is no longer a resident;

(iii) Establish or review policies and procedures for safe and effective drug therapy, distribution, use, and control; and

(iv) Monitor compliance with established policies and procedures for medication handling and storage.

(f) A nursing home that employs one or more certified medication aides to administer medications in accordance with this Code section shall ensure that each certified medication aide receives ongoing medication training as prescribed by the

Department. A registered professional nurse or pharmacist shall conduct quarterly unannounced medication administration observations and report any issues to the nursing home administrator.

(g) A nursing home that employs certified medication aides the nursing home shall annually conduct a comprehensive clinical skills competency review of each certified medication aide employed by such nursing home.

(56) There shall be sufficient nursing staff on duty at all times to provide care for each patient according to his needs. A minimum of 2.0 hours of direct nursing care per patient in a 24-hour period must be provided. For every seven (7) total nursing personnel required, there shall be not less than one registered nurse or licensed practical nurse employed. Dining assistants are to be used to supplement, not replace, existing nursing staff requirements and as such are not considered nursing staff and are not to be included in computing the required minimum hours of direct nursing care.

(67) The nursing staff shall be employed for nursing duties only.

(78) There shall be sufficient qualified personnel in attendance at all times to ensure properly supervised nursing services to the patients, including direct supervision of dining assistants in accordance with these rules. This includes staff members dressed, awake and on duty all night.

(89) All nursing care and related services shall be carried out in accordance with the facility's patient care policies. The lines of administrative authority and supervisory responsibility shall be clearly stated. Duties assigned to staff members shall be clearly defined and consistent with their training and experience. Policies and procedures governing nursing care shall be assembled, available and understood by the staff members and shall be the basis for staff education and practice.

(910) An active in-service nursing education program shall be in effect for all nursing personnel. This program shall be developed and conducted by a registered nurse who may be

employed part-time and under the direction of the director of nursing services.

(4011)The in-service nursing educational program shall be in writing and shall show the frequency of training. Attendance and progress records shall be kept for each person receiving instruction.

Authority: O.C.G.A. § 31-7-1 et seq.