

**RULES OF THE
DEPARTMENT OF COMMUNITY HEALTH**

**CHAPTER 11-8
HEALTHCARE FACILITY REGULATION**

**SUBJECT 111-8-65
PRIVATE HOME CARE PROVIDERS**

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Rule 111-8-65-.03. Definitions

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

(a) "Ambulation and transfer" means the act of moving or walking about or walking or being moved from place to place with or without assistance.

(b) "Applicant" means:

1. When the private home care provider is owned by a sole proprietorship, the individual proprietor shall be the applicant for the license, complete the statement of responsibility and serve as the licensee;

2. When the private home care provider is owned by a partnership, the general partners shall be the applicant for the license, complete the statement of responsibility and serve as the licensee;

3. When the private home care provider is owned by an association limited liability company (LLC), the governing body of the association or LLC shall authorize the application for the license and complete the statement of responsibility and the association shall serve as the licensee; and

4. When the private home care provider is owned by a corporation, the governing body of the corporation shall authorize the application for the license and complete the statement of responsibility and the corporation shall serve as the licensee.

(c) "Companion or sitter tasks" means the following tasks which are provided to elderly, handicapped, or convalescing individuals: transport and escort services; meal preparation and serving; and household tasks essential to cleanliness and safety.

(d) "Department" means the Department of Community Health.

(e) "Director" means the chief administrative or executive officer or manager.

(f) "Home health agency" means a facility licensed as a home health agency in accordance with the applicable licensing statutes and associated rules.

(g) "Home management" means those activities normally performed by a homemaker for the maintenance of a home's essential services, including but not limited to activities such as meal planning, shopping, and bill paying; any employee that is authorized unlimited access to a client's personal funds for home management shall be bonded through the provider.

(h) "Housekeeping or housekeeping tasks" means those activities performed for the upkeep and cleanliness of the home, including but not limited to such activities as laundry, changing linens, trash disposal, and cleaning.

(i) "Inspection" means any examination by the department or its representatives of a provider, including but not necessarily

limited to the premises, and staff, persons in care, and documents pertinent to initial and continued licensing so that the department may determine whether a provider is operating in compliance with licensing requirements or has violated any licensing requirements. The term inspection includes any survey, monitoring visit, complaint investigation, or other inquiry conducted for the purposes of making a compliance determination with respect to licensing requirements.

(j) "Medically frail or medically compromised client" means a client whose health status, as determined by appropriate provider staff in accordance with accepted standards of practice, is likely to change or has changed because of a disease process, injury, disability or advanced age and underlying disease process(es).

(k) "Medically related activities" means activities such as but not limited to observing and reporting changes in a client's condition, arranging trips to the doctor, picking up prescription drugs, accompanying clients on medical appointments, documenting client's food and/or liquid intake or output, reminding clients to take medication, and assisting with self-administration of medication; such activities shall not include professional services that are subject to regulation under professional practice and licensing statutes and associated rules.

(l) "Owner" means any individual or any person affiliated with the corporation, partnership, or association with 10 percent or greater ownership interest in a business or agency licensed as a private home care provider 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; or
3. Enters into a contract to acquire ownership of such a business or agency.

(m) "Personal care home" means a facility licensed as a personal care home in accordance with the applicable licensing statutes and associated rules.

(n) "Personal care tasks" means assistance with bathing, toileting, grooming, shaving, dental care, dressing, and eating; and may include but are not limited to proper nutrition, home management, housekeeping tasks, ambulation and transfer, and medically related activities, including the taking of vital signs only in conjunction with the above tasks.

(o) "Private home care provider" means any person, business entity, corporation, or association, whether operated for profit or not for profit, that directly provides or makes provision for private home care services through:

1. its own employees who provide nursing services, personal care tasks or companion or sitter tasks;
2. contractual arrangements with independent contractors who are health care professionals licensed pursuant to the applicable chapter of Title 43; or
3. referral of other persons to render home care services, when the individual making the referral has ownership or financial interest in the delivery of those services by those other persons who would deliver those services.

(p) "Private home care services" means those items and services provided at a patient's residence that involve direct care to that patient and includes, without limitation, any or all of the following:

1. nursing services, provided that such services can only be provided by a person licensed as a Registered Professional Nurse or Licensed Practical Nurse in accordance with applicable professional licensing statutes and associated rules;
2. personal care tasks; and

3. companion or sitter tasks.

4. Private home care services shall not include physical, speech or occupational therapy; medical nutrition therapy; medical social services; home health aide services provided by a home health agency; or proxy caregiver services provided by a proxy caregiver hired by the patient.

(q) "Residence" means the place where an individual makes that person's permanent or temporary home, whether that person's own apartment or house, a friend or relative's home, or a personal care home, but shall not include a hospital, nursing home, hospice, or other health care facility licensed under O.C.G.A. § 31-7-1et seq.

(r) "Responsible Party" means any person authorized in writing by the client or appointed by an appropriate court to act upon the client's behalf; the term shall include a family member of a physically or mentally impaired client unable to grant the above authorization.

(s) "Transport and escort services" means accompanying clients or providing or arranging transportation for clients to places outside of their residences for purposes such as appointments, entertainment, exercise, recreation, shopping, or social activities. If the mode of transportation is not owned by the client and is operated by an employee of the provider, the provider shall either obtain a signed waiver by the client of any claims for damages arising out of the operation of the vehicle or make reasonable efforts to insure that there is current motor vehicle insurance that will provide medical coverage for the client, in the event that the vehicle is involved in an accident causing injuries to the client.

Authority: O.C.G.A. §§ 31-2-2, 31-2-7, and 31-7-300 et seq.

Rule 111-8-65-.05. Licenses

(1) No private home care provider shall operate without a license or provisional license issued by the department.

(a) A license shall be issued and renewed periodically by the department upon a providers' compliance with these rules and shall remain in force and effect until the license expires or is suspended, revoked or limited.

(b) Prior to the issuance of any new license, 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.

(c) A provisional license may be issued by the department on a conditional basis for one of the following reasons:

1. To allow a newly established provider a reasonable, but limited, time to demonstrate that its operational procedures comply with these rules; or

2. To allow an existing provider a reasonable length of time to comply with these rules and regulations, provided that the provider shall present a plan of improvement acceptable to the department.

(2) Qualifications Requirement. In order to obtain or retain a license or provisional license, the provider's administrator and its employees must be qualified, as defined in these rules, to direct or work in a program. However, the department may require additional reasonable verification of the qualifications of the administrator and employees either at the time of application for a license or provisional license or at any time during the license period whenever the department has reason to believe that an administrator or employee is not qualified under these rules to direct or work in a program.

(a) If a governing body maintains offices as a private home care provider in more than one location, then each location shall be separately licensed.

(b) The license shall be prominently and appropriately displayed at the private home care providers licensed location.

(c) No license issued under these rules is assignable or transferable. Each license or provisional license shall be returned to the department in cases of changes in name, location, ownership or governing body or if suspended, revoked, or limited. The department shall be provided 15 days notice in advance of any providers change in location.

Authority: O.C.G.A. §§ 31-2-5, 31-2-7 and 31-7-300 et seq.

Rule 111-8-65-.09. Administration and Organization

(1) Services Description. A provider shall establish and implement written policies and procedures that define the scope of private home care services it offers and the types of clients it serves. No provider shall provide services that are prohibited by these rules, the applicable legal authority, or other laws.

(2) Service Agreements. No provider shall offer to provide a client any private home care services that it cannot reasonably expect to deliver in accordance with these rules.

(a) A provider shall establish and implement policies and procedures for service agreements. All services provided to a client shall be based on a written service agreement entered into with the client or the client's responsible party, if applicable. The service agreement must include the following:

1. Date that provider makes initial contact with client for services;

2. Date of referral, i.e. the date on which the provider received a specific request to deliver private home care services to a particular client;

3. Description of services needed as stated by client or responsible party, if applicable;

4. Description of services to be provided and expected frequency and duration of services;

5. Charges for such services, and mechanisms for billing and payment of such charges;

6. Acknowledgment of receipt of a copy of client's rights and responsibilities as outlined at rule .12;

7. A telephone number of the provider that a client can call for information, questions, or complaints about services supplied by the provider;

8. The telephone number of the state licensing authority, i.e. the department, to call for information or questions about the provider concerning a violation of licensing requirements that was not resolved to the client's satisfaction by complaining to the provider;

9. Authorization from client or responsible party, if applicable, for access to client's personal funds when home management services are to be provided and when those services include assistance with bill paying or any activities, such as shopping, that involve access to or use of such funds; similarly approved authorization for use of client's motor vehicle when services to be provided include transport and escort services and when the client's personal vehicle will be used;

10. Signatures for the provider's representative and the client or responsible party, if applicable, and date signed; if a client or responsible party refuses to sign the agreement, such refusal shall be noted on the agreement with an explanation from the provider's representative.

(b) For new clients, such initial service agreements shall be completed not later than the second visit to the client's residence to provide services if the second visit occurs on a different day

from the first visit or not later than seven calendar days after services are initially provided in the residence, whichever is earlier.

1. If the provider is unable to complete the service agreement for good cause, the provider will document such reason(s) in the client's file.

2. Subsequent revisions to the initial service agreement may be handled by the provider noting in the client's record the specific changes in service (e.g. addition or deletion of service, changes in frequency, or duration, or charge for services, etc.) that will occur and that the change was discussed with and agreed to by the client and/or responsible party, as appropriate, who signed the initial agreement prior to the change in services occurring.

(c) A client has the right to cancel any service agreement at any time and shall only be charged for services actually rendered prior to the time that the provider is notified of the cancellation. The provider may assess a reasonable charge for travel and staff time if notice of the cancellation of the service agreement is not provided in time to cancel the service prior to the provider's staff member arriving at the client's house to perform the service.

(3) Administrator. The governing body shall appoint an administrator who shall have full authority and responsibility for the operation of the private home care provider.

(a) Any administrator employed by the provider must meet the following minimum qualifications:

1. Obtain a satisfactory fingerprint records check determination in compliance with the Rules and Regulations for Criminal Background Checks, Chapter 111-8-12;

2. Participate in the orientation and training required by these rules;

3. Not have made any material false statements concerning qualifications requirements either to the department or the provider.

(4) Record keeping.

(a) Client Records. A provider shall maintain a separate file containing all written records pertaining to the services provided for each client that it serves and the file shall contain the following:

1. Identifying information including name, address, telephone number, and responsible party, if any;

2. Current service agreement as described at rule .09(2);

3. Current service plan as described at rule .11;

4. Clinical and/or progress notes if the client is receiving nursing services that have been signed and dated by the staff providing the direct care;

5. Documentation of personal care tasks and companion or sitter tasks actually performed for the client;

6. Documentation of findings of home supervisory visits by the supervisor unless entered in service plan;

7. Any material reports from or about the client that relate to the care being provided to the client including items such as progress notes and problems reported by employees of the provider, communications with personal physicians or other health care providers, communications with family members or responsible parties, or similar items;

8. The names, addresses, and telephone numbers of the client's personal physicians, if any; and

9. Date and source of referral.

(b) Retention and Confidentiality of Client Records. Written policies and procedures shall be established and implemented for

the maintenance and security of client records specifying who shall supervise the maintenance of records, who shall have custody of records, to whom records may be released and for what purposes and how long the records will be retained.

1. At a minimum, all client records shall be retained for five years from the date of last service provided. The provider shall maintain the confidentiality of client records.

2. Employees of the provider shall not disclose or knowingly permit the disclosure of any information in a client record except to appropriate provider staff, the client, responsible party (if applicable), the client's physician or other health care provider, the department, other individuals authorized by the client in writing or by subpoena.

(c) Personnel Records. A provider shall maintain separate written records for each employee and the records shall include the following:

1. Identifying information such as name, address, telephone number, and emergency contact person(s);

2. A five year employment history or a complete employment history if the person has not been employed five years;

3. Records of qualifications;

4. Records of health screenings, demonstrating compliance with the following:

- (i) Each provider shall have in place a health screening program designed to identify conditions that may place clients at risk for infection, injury, or improper care. The program shall include requirements and processes for initial, routine, and targeted health screenings of employees and contractors who interact with clients or conduct other activities with environmental impact.

(ii) Screening for Tuberculosis (TB). Prior to starting work, all employees must be screened for TB in accordance with CDC guidance for baseline screening and testing for health care personnel.

5. Date of employment;

6. The person's job description or statements of the person's duties and responsibilities;

7. Documentation of orientation and training required by these rules;

8. Documentation of at least an annual performance evaluation;

9. Documentation of bonding if the employee performs home management services which permit unlimited access to the client's personal funds. (If bonding is provided through a universal coverage bond, evidence of bonding need not be maintained separately in each personnel folder.)

(d) Reports of Complaints and Incidents. The provider shall maintain files of all documentation of complaints submitted pursuant to rule .12(2). A provider shall also maintain on file for a minimum of five years all incident reports or reports of unusual occurrences (e.g. falls, accidents, significant medication errors, etc.) that affect the health, safety, and welfare of its clients. Documentation required to be maintained shall include what actions, if any, the provider took to resolve clients' complaints and to address any incident reports or unusual occurrences required to be retained.

(5) Staffing. The provider shall have sufficient numbers of qualified staff as required by these rules to provide the services specified in the service agreements with its clients. In the event that the provider becomes aware that it is unable to deliver the specified services to the client because of an unexpected staff

shortage, the provider shall advise the client and refer the client to another provider if the client so desires.

(a) All staff employed by a provider shall have included in their personnel records or files maintained by the particular provider a written evaluation that was performed within one year before or after the effective date of these rules. The written evaluation must reflect that the employee's performance of required job tasks was observed personally by a supervisor either by demonstration or observation and such performance was determined to be competent for all job tasks required to be performed. All staff hired by the provider must meet the following minimum qualifications:

1. Prior to serving as a direct access employee, obtain a satisfactory fingerprint records check determination in compliance with the Rules and Regulations for Criminal Background Checks, Chapter 111-8-12;
2. Participate in the orientation and training required by these rules;
3. Not have made any material false statements concerning qualifications requirements either to the department or the provider.

(b) Nursing Personnel. Any persons employed by the provider to provide nursing services shall be licensed in Georgia in accordance with professional licensing laws and associated rules. Such persons may also provide any other types of private home care services offered by the provider.

(c) Personal Care Assistant (PCA). The provider may have PCAs perform personal care tasks for clients. Such persons may also perform companion or sitter tasks for clients, but shall not provide nursing services unless qualified as stated in rule .09(5)(b) above.

1. Any PCA hired after the effective date of these rules shall have the following training and/or experience:

(i) successful completion of a nurse aide training and competency evaluation program pursuant to the requirements of 42 CFR Part 483, Subpart D, as revised or recodified, if applicable; or

(ii) successful completion of a competency examination for nurse aides recognized by the department; or

(iii) successful completion of a health care or personal care credentialing program recognized and approved by the department; or

(iv) successful completion or progress in the completion of a 40 hour training program provided by a private home care provider, which addresses at least the following areas:

(I) Ambulation and transfer of clients, including positioning;

(II) Assistance with bathing, toileting, grooming, shaving, dental care, dressing, and eating;

(III) Basic first aid and CPR;

(IV) Caring for clients with special conditions and needs so long as the services are within the scope of the tasks authorized to be performed by demonstration;

(V) Home management;

(VI) Home safety and sanitation;

(VII) Infection control in the home;

(VIII) Medically related activities to include the taking of vital signs; and

(IX) Proper nutrition.

2. A training program described in rule .09(5)(c)1. (iv) must be conducted under the direction of a licensed registered professional nurse, or a health care professional with commensurate education and experience. Twenty hours of the program must be completed by the employee prior to serving clients and the additional twenty hours must be completed within six months of the date the training initially began. No PCA shall be assigned to perform a task for which training has not been completed and competency has not been determined. No PCA shall be assigned to care for a client with special conditions unless the PCA has received training and has demonstrated competency in performing such services related to such special conditions.

(d) Companions or Sitters. The provider may have companions or sitters perform companion or sitter tasks for clients.

1. Such persons may not provide other private home care services to clients unless qualified as stated in rules .09(5)(b)and(c).

2. Any companion or sitter hired after the effective date of these rules must meet the following minimal requirements:

(i) Be able to read and write, follow verbal and written instructions, and complete written reports and documents;

(ii) Successfully complete training or demonstrate understanding and practical competency in the following areas: understanding the needs and characteristics of elderly, handicapped, or convalescing individuals; meal preparation and serving; transportation and escort services; housekeeping to include sanitation; home safety; handling medical emergencies in the home; and infection control.

(6) Staff Training. Prior to working with clients, all employees hired or used on or after the effective date of these rules and who provide services to clients shall be oriented in accordance with

these rules and shall thereafter receive additional training in accordance with these rules.

(a) Orientation shall include instruction in:

1. The provider's written policies and procedures regarding its scope of services and the types of clients it serves (rule .09(1) and clients rights and responsibilities and complaints (rule .12), as well as other policies that are relevant to the employee's range of duties and responsibilities;

2. The employee's assigned duties and responsibilities;

3. Reporting client progress and problems to supervisory personnel and procedures for handling medical emergencies or other incidents that affect the delivery of services in accordance with the client's services plan;

4. The employee's obligation to report known exposure to tuberculosis and hepatitis to the employer.

(b) Additional training consisting of a minimum of eight clock hours of training or instruction shall be provided annually for each employee after the first year of employment. Employees hired prior to the effective date of these rules are also required to receive eight clock hours of training or instruction annually beginning with the effective date of these rules. Such training or instruction shall be in subjects that relate to the employee's assigned duties and responsibilities.

(7) Contracted Services. If a provider arranges with independent contractors, individuals, or agents for them to provide any authorized private home care services on behalf of the provider in any way, such arrangements shall be set forth in writing detailing the services to be provided. The provider must assure that the independent contractor, individual, or agent supplying the services follow the provisions of these rules and are qualified to provide the services. The services must be supervised,

as outlined in rule .10(2) (Supervision of Services), by a supervisor of the licensed provider.

Authority: O.C.G.A. §§ 31-2-5, 31-2-7 and 31-7-300, et seq.