

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

REPEAL CHAPTER 290-5-38

AND

REPLACE WITH NEW CHAPTER 111-8-31

RULES AND REGULATIONS FOR HOME HEALTH AGENCIES

SYNOPSIS OF PROPOSED RULE CHANGES

STATEMENT OF PURPOSE: The Department of Community Health proposes to repeal the Rules for Home Health Agencies, Chapter number 290-5-38 and replace with a new Chapter number 111-8-31. This change is necessary to reflect that home health agencies are subject to regulation by the Department of Community Health rather than the Department of Human Resources, which has since been renamed as the Department of Human Services. These rules are being proposed pursuant to the authority granted the Department of Community Health in O.C.G.A. § 31-2-4 et seq. and 31-7-1 et seq.

In the formulation of the proposed new rules, the Department has considered the economic costs associated with the regulations and the impact on small businesses in the state. To the extent possible, the proposed rules do not impose excessive regulatory costs on the regulated entities while supporting the quality of care being delivered and the health and safety of the participants receiving care.

MAIN FEATURES OF THE PROPOSED RULES: The proposed Rules for Home Health Agencies, Chapter 111-8-31, set forth the existing licensing standards for home health agencies. These proposed Rules do not change the existing substantive rules except to replace the Chapter number, the name of the Department and update Georgia Code and rule references throughout. The proposed rules include the following features:

- Restatement of existing Purpose in Rule 111-8-31-.01.
- Restatement of existing Applications and Licenses in Rule 111-8-31-.02 and updating reference to the Department of Community Health and State Health Planning as a unit within the Department.
- Restatement of existing Certificate of Need requirements in Rule 111-8-31-.03 and removal of unnecessary legal reference.

- Restatement of existing provisions for Exemptions in Rule 111-8-31-.04.
- Restatement of existing provisions for Inspections in Rule 111-8-31-.05.
- Restatement of existing Definitions in Rule 111-8-31-.06 except for the substitution of Community Health for Human Resources wherever it appears, removing unnecessary letter capitalizations and clarifying that State Health Planning is a unit within the Department.
- Restatement of existing requirements for Administrative Standards in Rule 111-8-31-.07.
- Restatement of existing requirements for Scope of Services in Rule 111-8-31-.08.
- Restatement of existing requirements for Standards for Patient Care in Rule 111-8-31-.09.
- Restatement of existing requirements for Penalties in Rule 111-8-31-.10.
- Restatement of existing requirements for Fees in Rule 111-8-31-.11.
- Restatement of existing requirements for Enforcement in Rule 111-8-31-.12.
- Restatement of existing requirements for Applicability of Regulations in Rule 111-8-31-.13.
- Restatement of existing requirements for Severability in Rule 111-8-31-.14.
- Inclusion of updated references to the Official Code of Georgia Annotated throughout and the correction of spacing and letter capitalizations throughout.

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

**CHAPTER 290-5-38
HOME HEALTH AGENCIES**

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290-5-38-.01 Purpose.

Under the authority of Georgia Laws 1980, p. 1790, et seq., the Department of Human Resources is authorized and required to establish the licensing procedures and standards of operation for Home Health Agencies operating in this State. These rules and regulations are provided for this purpose.

Authority Ga. L. 1980, p. 1790, et seq. **Administrative History.** Original Rule entitled "Purpose" was filed on January 6, 1981; effective February 6, 1981, as specified by the Agency.

~~290-5-38-.02 Applications and Licenses.~~

~~Each person, private or public organization, political subdivision, or other governmental agency desiring to operate a Home Health Agency, as defined herein, must first apply for and obtain a license using the forms furnished by the Department of Human Resources. A license is not assignable or transferable and is subject to suspension or revocation at any time for failure to comply with these rules and regulations.~~

~~(a) Applications:~~

- ~~1. The governing body of the Home Health Agency shall submit to the Department an application for a license of each agency and/or subunit. Such application(s) shall be signed by the executive officer of the governing body.~~
- ~~2. The application for a license shall be filed at least thirty (30) days prior to the anticipated date of opening and commencement of operation of a new Home Health Agency.~~
- ~~3. Corporations shall submit a copy of their charter and the name and address of all owners with five percent or more of the stock and shall identify each corporate officer.~~
- ~~4. An application for a change in service(s) or service area(s) which is subject to review under Ga. Code Chapter 88-33 and applicable rules shall be accompanied by a letter of approval from the State Health Planning and Development Agency.~~

~~(b) Licenses:~~

- ~~1. To be eligible for a license, the Home Health Agency must be in satisfactory compliance with these rules and regulations and other applicable Federal, State and local laws.~~
- ~~2. The license shall be returned to the Department when the Home Health Agency ceases to operate, or is leased, or is moved to another location, or the ownership changes, or the license is suspended or revoked.~~
- ~~3. Any person or agency wishing to appeal the denial, suspension or revocation of a license is entitled to request a hearing under the provisions of the "Georgia Administrative Procedure Act."~~
- ~~4. Licenses will be renewed on an annual basis.~~
- ~~5. The license shall be prominently and appropriately displayed.~~

~~Authority Ga. L. 1980, pp. 1790, 1793. **Administrative History.** Original Rule entitled "Applications and Licenses" was filed on January 6, 1981; effective February 6, 1981, as specified by the Agency.~~

~~290-5-38-.03 Certificate of Need and 1122 Review.~~

~~Home Health Agencies which are required by State laws to obtain a Certificate of Need shall submit evidence that such requirements have been met when applying for a license. Authority Ga. L. 1980, p. 1794. **Administrative History.** Original Rule entitled "Certificate of Need and 1122 Review" was filed on January 6, 1981; effective February 6, 1981, as specified by the Agency.~~

~~290-5-38-.04 Exemptions.~~

~~These rules and regulations shall not apply to services which are provided under the following conditions:~~

- ~~(a) Persons who provide personal or paraprofessional health services, either with or without compensation when there is no claim that the service is provided as a part of a licensed Home Health Agency;~~

~~(b) Persons who provide professional services for which they are duly licensed under Georgia laws, when there is no claim that the service is provided as a part of a licensed Home Health Agency;~~

~~(c) Services provided under the provisions of any other license issued by the State of Georgia when there is no claim that the service is provided as a part of a licensed or certified Home Health Agency;~~

~~(d) Any Home Health Agency certified in a Federal program for reimbursement of Medicare or Medicaid services shall be exempt from an additional on-site licensure inspection upon presentation of evidence of such certification.~~

~~Authority Ga. L. 1980, p. 1791. **Administrative History.** Original Rule entitled "Exemptions" was filed on January 6, 1981; effective February 6, 1981, as specified by the Agency.~~

~~290-5-38-.05 Inspections.~~

~~For the purpose of insuring compliance with these rules and regulations, each Home Health Agency shall be subjected to periodic inspections by an authorized representative of the Department. Such inspections shall take place during reasonable hours and, if possible, during scheduled operating hours. The administrator or his representative shall accompany the Department representative on tours of inspection and shall sign the completed checklist.~~

~~Authority Ga. L. 1980, pp. 1793, 1794. **Administrative History.** Original Rule entitled "Inspections" was filed on January 6, 1981; effective February 6, 1981, as specified by the Agency.~~

~~290-5-38-.06 Definitions.~~

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

~~(a) "Administrator" means the full-time person by whatever title used, to whom the governing body has delegated the responsibility for day-to-day administration of the Home Health Agency, including the implementation of the rules and policies adopted by the governing body, and who:~~

~~1. is a licensed physician; or~~

~~2. is a registered nurse; or~~

~~3. has training and experience in health service administration and at least one (1) year of supervisory or administrative experience in home health care or related health programs.~~

~~(b) "Board" means the Board of Human Resources.~~

~~(c) "Branch Office" means a location or site identified in the application or endorsement thereto from which a Home Health Agency provides services within a portion of the total geographic area served by the parent agency. The branch office is part of the Home Health Agency and is located sufficiently close to share administration, supervision, and services in a manner that renders it unnecessary for the branch independently to meet the requirements of these rules and regulations.~~

~~(d) "By-Laws" means a set of rules adopted by a Home Health Agency for governing the agency's operation.~~

~~(e) "Certificate of Need" shall have that meaning as defined in Ga. Code Chapter 88-33 and applicable rules.~~

~~(f) "Clinical Note" means a dated and signed written notation by the providing member of the health team of a contact with a patient containing a description of signs and~~

~~Chapter 111-8-31, Rules for Home Health Agencies~~

~~Presented to BCH for Initial Adoption 12/13/12~~

~~symptoms, treatment and drug given, the patient's reaction, and any changes in physical or emotional condition.~~

~~(g) "Department" means the Georgia Department of Human Resources.~~

~~(h) "Governing Body" means the person or persons, natural or corporate, in which the ultimate responsibility, authority and accountability for the conduct of the Home Health Agency is vested.~~

~~(i) "Health Professionals" means those professionals engaged in the delivery of health services Who are currently licensed to practice in the State of Georgia, or are certified, or practice under authority consistent with Georgia laws.~~

~~(j) "Home Health Agency" means: a public, non-profit, or proprietary organization; whether owned or operated by one or more persons or legal entities, which is engaged in providing home health services.~~

~~(k) "Home Health Services" means those items and services provided to an individual, according to a written plan of treatment signed by the patient's physician, by a Home Health Agency or others under arrangement with the Home Health Agency on a visit or hourly basis, in a place of temporary or permanent residence used as the individual's home as follows:~~

- ~~1. part time or intermittent skilled nursing care as ordered by a physician and provided by or under the supervision of a registered nurse and at least one other service listed below;~~
- ~~2. physical, occupational, or speech therapy;~~
- ~~3. medical social services;~~
- ~~4. home health aide services.~~

~~(l) "License" means a license issued by the Department.~~

~~(m) "Licensee" means the individual, corporation, or public entity with whom rests the ultimate responsibility for maintaining approved standards for the Home Health Agency.~~

~~(n) "Licensed Practical Nurse or LPN" means an individual who is currently licensed as a licensed practical nurse in Georgia.~~

~~(o) "Occupational Therapist" means a qualified individual who:~~

- ~~1. Is currently licensed as an occupational therapist in Georgia; and~~
- ~~2. Meets the Federal conditions for participation.~~

~~(p) "Occupational Therapy Assistant" means a qualified individual who:~~

- ~~1. Is currently licensed as an occupational therapy assistant in Georgia and assists in the practice of occupational therapy under the supervision and direction of a Georgia licensed occupational therapist; and~~
- ~~2. Meets the Federal conditions for participation.~~

~~(q) "Parent Home Health Agency" means the agency that develops and maintains administrative controls of subunits or branch offices.~~

~~(r) "Physical Therapist" means a qualified individual who:~~

- ~~1. Is currently licensed as a physical therapist in Georgia; and~~
- ~~2. Meets the Federal conditions for participation.~~

~~(s) "Physical Therapy Assistant" means a qualified individual who:~~

- ~~1. Is currently licensed as a physical therapy assistant in Georgia and assists in the practice of physical therapy under the supervision and direction of a Georgia licensed physical therapist; and~~
- ~~2. Meets the Federal conditions for participation.~~

- (t) "Physician" means an individual who is currently licensed or authorized to practice medicine and surgery in Georgia.
- (u) "Plan of Treatment" means an individual plan written, signed, and reviewed at least every sixty days by the patient's physician prescribing items and services for the patient's condition.
- (v) "Primary Home Health Agency" means the Agency (Parent or Subunit) that is responsible for the service rendered to patients and for implementation of the plan of treatment.
- (w) "Progress Note" means a dated and signed written notation by the providing member of the health team, summarizing facts about care and the patient's response during a given period of time.
- (x) "Registered Nurse or RN" means an individual who is currently licensed as a registered professional nurse in Georgia.
- (y) "Service Area" means the geographical area in which a Home Health Agency provides services, as defined by the State Health Planning and Development Agency.
- (z) "Social Work Assistant" means an individual who meets the Federal conditions of participation and applicable Georgia Laws.
- (aa) "Social Worker" means an individual who meets the Federal conditions of participation and applicable Georgia Laws.
- (bb) "Speech Pathologist" and/or "Audiologist" means a qualified individual who:
1. Is currently licensed as a speech pathologist and/or audiologist in Georgia; and
 2. Meets the Federal conditions of participation.
- (cc) "Subunit" means a semiautonomous organization, which serves patients in a geographic area different from that of the parent agency. The subunit by virtue of the distance between it and the parent agency is judged incapable of sharing administration, supervision, and services on a daily basis with the parent agency, and must, therefore, independently meet the licensing requirements for a Home Health Agency, and shall be separately licensed.
- (dd) "Supervision" means authoritative procedural guidance by a qualified person for the accomplishment of a function or activity with initial direction and periodic inspection of the actual act of accomplishing the function or activity.
- Authority Ga. L. 1980, pp. 1790, 1791, 1792, 1793. **Administrative History.** Original Rule entitled "Definitions," was filed on January 6, 1981; effective February 6, 1981, as specified by the Agency.

290-5-38-.07 Administrative Standards.

- (1) Organizations, Services, Administration. Organizations, services provided, administrative control, and lines of authority for the delegation of responsibility down to the patient care level shall be clearly set forth in written policies and procedures. Administrative and supervisory functions shall not be delegated to another agency or organization. Services not provided directly shall be monitored and controlled by the primary agency, including services provided through subunits of the parent agency. If an agency has subunits, appropriate administrative records shall be maintained for each subunit.
- (2) Governing Body. There shall be a Governing Body which assumes full legal authority and responsibility for the operation of each Home Health Agency. The Governing Body

shall appoint a qualified administrator, arrange for professional advice, adopt and periodically review written bylaws and oversee the management and fiscal affairs of the agency. The name and address of each officer, directors, and owner shall be disclosed to the Department. If the agency is a corporation, all ownership interests of five (5) percent or more (direct or indirect) shall also be disclosed.

(3) Group of Professional Personnel:

(a) A group of professional personnel, which shall include at least one physician and one registered nurse, with appropriate representation from other professional disciplines, shall establish and annually review the policies of each Home Health Agency governing scope of services offered, admission and discharge policies, medical supervision and plans of treatment, emergency care, clinical records, personnel qualifications, and program evaluation. There must be at least one member of the group who is neither an owner nor an employee of the agency.

(b) The group of professional personnel shall meet at least once per quarter unless circumstances require more often to advise the agency on professional issues, to participate in the evaluation of the agency's program, and to assist the agency in maintaining liaison with other health care providers in the community and in its community information program. The minutes shall be documented by dated minutes.

(4) Administrator. The administrator (who may also be the supervising physician or registered nurse), is responsible for organizing and directing the agency's ongoing functions; maintaining ongoing liaison among the Governing Body, the group of professional personnel, and the staff; employing qualified personnel and ensuring adequate staff education and evaluations; ensuring the accuracy of public information, materials and activities; and implementing an effective budgeting and accounting system. A qualified person shall be authorized in writing to act in the absence of the administrator.

(5) Supervising Physician or Registered Nurse. Skilled nursing and other therapeutic services provided shall be under the supervision and direction of a physician or a registered nurse. This person or similarly qualified alternate shall be available at all times during operating hours and: participate in all activities relevant to the professional services provided, including the developing of qualifications and assignments of personnel.

(6) Personnel Policies. Personnel practices shall be supported by appropriate, written personnel policies. Individual personnel records shall include job descriptions, qualifications, licenses, performance evaluations, and health examinations, and shall be kept current. If personnel under hourly or per visit contracts are utilized by the Home Health Agency, there shall be a written contract between such personnel and the agency clearly designating:

- (a) that patients are accepted for care only by the primary Home Health Agency;
- (b) the services to be provided;
- (c) the necessity to conform to all applicable agency policies including personnel qualifications;
- (d) the responsibility for participating in developing plans of treatment;
- (e) the manner in which services will be controlled, coordinated, and evaluated by the primary agency;

~~(f) the procedures for submitting clinical and progress notes, scheduling of visits, periodic patient evaluation; and~~

~~(g) the procedure for determining charges and reimbursement.~~

~~(7) Planning and Budget. A Home Health Agency, under the direction of the Governing Body, shall prepare an overall plan and budget which provides for an annual operating budget. If capital expenditures are anticipated, a three-year capital expenditure plan shall be provided and updated annually. The overall plan, budget and capital expenditure plan shall be reviewed and updated at least annually.~~

~~(8) Evaluation.~~

~~(a) A Home Health Agency shall have written policies requiring an overall evaluation of the agency's total program at least once a year by the group of professional personnel (or a committee of this group), Home Health Agency staff, and consumers; or by professional people outside the agency working in conjunction with consumers. The evaluation shall consist of an overall policy and administrative review and a clinical record review. The evaluation shall assess the extent to which the agency's program is appropriate, adequate, effective and efficient. Results of the evaluation shall be reported to the Governing Body and maintained separately as administrative records. Mechanisms shall be established in writing for the collection of pertinent data to assist in this evaluation. This data to be considered may include but is not limited to:~~

- ~~1. number of patients receiving each service offered;~~
- ~~2. number of patient visits;~~
- ~~3. reasons for discharge;~~
- ~~4. breakdown by diagnosis;~~
- ~~5. sources of referral;~~
- ~~6. number of patients not accepted with reasons; and~~
- ~~7. total staff days for each service offered.~~

~~(b) At least quarterly, appropriate health professionals representing at least the scope of the program, shall review a sample of both active and closed clinical records to assure that established policies are followed in providing services (direct services as well as services under arrangement). Evidence of this review shall be documented by dated minutes.~~

~~Authority Ga. L. 1980, p. 1793. **Administrative History.** Original Rule entitled "Administrative Standard," was filed on January 6, 1981; effective February 6, 1981, as specified by the Agency.~~

~~290-5-38-.08 Scope of Services.~~

~~A Home Health Agency shall provide part time or intermittent skilled nursing services and at least one other therapeutic service, e.g., physical, speech, or occupational therapy; medical social services; or home health aide services. Services shall be made available on a visiting basis, in a place of residence, as a patient's home.~~

~~(a) Nursing Services. A Home Health Agency shall provide skilled nursing service by or under the supervision of a registered nurse and in accordance with the plan of treatment.~~

~~1. Duties of the registered nurse (RN). A registered nurse shall make the initial evaluation visit, regularly reevaluate the patient's nursing needs, initiate the plan of treatment and necessary revisions, provide those services requiring substantial specialized nursing skill, initiate appropriate preventive and rehabilitative nursing procedures, prepare clinical and~~

progress notes, coordinate services inform the physician and other personnel of changes in the patient's condition and needs, counsel the patient and family in meeting nursing and related needs, participate in inservice programs, and supervise and teach other personnel.

2. Duties of the licensed practical nurse (LPN). The licensed practical nurse shall provide services in accordance with agency policies, prepare clinical and progress notes, assist the physician and/or registered nurse in performing specialized procedures, prepare equipment and materials for treatments observing aseptic technique as required and assist the patient in learning appropriate self-care techniques.

(b) Therapy Services. All therapy services offered by the Home Health Agency directly or under arrangement shall be given by a qualified therapist in accordance with the plan of treatment. The qualified therapist shall assist the physician in evaluating level of function, help develop the plan of treatment (revising as necessary), prepare clinical and progress notes, advise and consult with the family and other agency personnel, and participate in inservice programs. Therapy services include, but are not limited to:

1. Physical Therapy;
2. Occupational Therapy;
3. Speech Therapy;
4. Audiology.

(c) Medical Social Services. Medical social services, when provided, shall be given by a qualified social worker in accordance with the plan of treatment. The social worker shall assist the physician and other team members in understanding the significant social and emotional factors related to the health problems, participate in the development of the plan of treatment, prepare clinical and progress notes, work with the family, utilize appropriate community resources, participate in discharge planning and inservice programs, and act as a consultant to other agency personnel.

(d) Home Health Aide Services.

1. Home health aides shall be selected on the basis of such factors as a sympathetic attitude toward the care of the sick; ability to read, write, and carry out directions; and maturity and ability to deal effectively with the demands of the job. Aides shall be carefully trained in at least the following areas: methods of assisting patients to achieve maximum self-reliance, principles of nutrition and meal preparation, the aging process and emotional problems of illness, procedures for maintaining a clean, healthful, and pleasant environment, recognizing changes in a patient's condition that should be reported, work of the agency and the health team; ethics, confidentiality, and recordkeeping. Aides shall be closely supervised to assure their competence in providing care.

2. A home health aide shall be assigned to a particular patient by a registered nurse. Written instructions for patient care shall be prepared by a registered nurse or therapist as appropriate. Home health aide duties shall be limited to the performance of simple procedures such as an extension of therapy services, personal care, ambulation and exercise, household services essential to health care at home, assistance with medications that are ordinarily self-administered, reporting changes in the patient's condition and needs, and completing appropriate records.

3. A registered nurse, or other appropriate professional staff member, if other services are provided, shall make a supervisory visit to the patient's residence at least every two

weeks, either when the aide is present to observe and assist, or when an aide is absent, to assess relationships and determine whether goals are being met. A record of the supervisory visit shall be dated and documented by a clinical note in the patient clinical record.

~~(e) Coordination of Patient Services. All personnel providing services shall maintain a liaison with the Home Health Agency to assure that their efforts effectively complement one another and support the objectives outlined in the plan of treatment. The clinical record shall contain dated minutes of case conferences verifying that effective interchange, reporting, and coordinated patient evaluation does occur. A written summary report of clinical and progress notes for each patient shall be sent to the attending physician at least every sixty (60) days and upon discharge. A copy of these reports shall become a permanent part of the patient's clinical record.~~

~~(f) Services Under Arrangements. All services provided under arrangements shall be subject to a written contract. Contracts for home health services shall conform with the specific requirements of Rule 290-5-38-.07 (6)(a) through (g).~~

~~Authority Ga. L. 1980, pp. 1790, 1791, 1792, 1793. History. Original Rule entitled "Scope of Services" was filed on January 6, 1981; effective February 6, 1981, as specified by the Agency.~~

~~290-5-38-.09 Standards for Patient Care.~~

~~Patients shall be accepted for treatment on the basis of a reasonable expectation that the patient's medical, nursing, and social needs can be met adequately by the agency in the patient's place of residence. Patients shall not be denied services because of their age, sex, race, religion, or national origin. Care shall follow a written plan of treatment established and periodically reviewed by a physician, and shall continue under the supervision of a physician.~~

~~(a) Plan of Treatment. An individual plan of treatment shall be developed for each patient in consultation with agency staff, and shall cover all pertinent diagnosis, including mental status, types of services and equipment required, frequency of visits, prognosis, rehabilitation potential, functional limitations, activities permitted, nutritional requirements, medications and treatments, safety measures to protect against injury, instructions for timely discharge or referral, and other appropriate items. If a physician refers a patient under a plan of treatment which cannot be completed until after an evaluation visit, the physician shall be consulted to approve additions or modifications to the original plan. Orders for therapy services shall specify the procedures and modalities to be used, and the amount, frequency, and duration.~~

~~(b) Periodic Review of Plan of Treatment. The total plan of treatment shall be reviewed by the attending physician and Home Health Agency personnel as often as the severity of the patient's condition requires, but at least once every sixty (60) days. Date of the review and approval of the plan shall be documented by the physician's signature. Agency professional staff shall promptly alert the physician to any changes that suggest a need to alter the plan of treatment.~~

~~(c) Conformance with Physician's Orders. Drugs and treatment shall be administered by agency staff only as ordered by the physician. The nurse or therapist shall immediately record and sign oral orders and forward the written order within five (5) business days to the physician for countersignature. Documentation of the physician's countersignature must appear in the patient's medical record within thirty (30) days of the verbal order. Professional agency staff shall check all medicines a patient may be taking to identify possible ineffective drug therapy or adverse reactions, significant side effects, drug allergies, and contraindicated medication, and shall promptly report any problems to the physician.~~

~~(d) Clinical Records.~~

~~1. A clinical record shall be established and maintained on each patient in accordance with accepted professional standards and shall contain:~~

~~(i) pertinent past and current findings;~~

~~(ii) plan of treatment;~~

~~(iii) appropriate identifying information;~~

~~(iv) name of physician;~~

~~(v) drug, dietary, treatment and activity orders;~~

~~(vi) signed and dated clinical and progress notes (clinical notes are written the day service is rendered by the providing member of the health team and incorporated no less often than weekly);~~

~~(vii) copies of case conferences;~~

~~(viii) copies of summary reports sent to the physician; and~~

~~(ix) a discharge summary.~~

~~2. If a patient transfers to another Home Health Agency or a health facility, a copy of the record or abstract shall be furnished to accompany the patient.~~

~~3. Sufficient space and equipment for record processing, storage and retrieval shall be provided.~~

~~4. Policies and procedures shall be written and implemented to assure organization and continuous maintenance of the clinical records system.~~

~~(e) Retention of Records. Clinical records shall be retained for a period of six years after the last patient encounter for adults, and for six years after a minor reaches the age of~~

majority. These records may be retained as originals, microfilms, or other usable forms and shall afford a basis for complete audit of professional information. If the Home Health Agency dissolves or changes ownership, a plan for record retention shall be developed and placed into effect. The Department shall be advised of the disposition and/or location of said records.

(f) ~~Protection of Records.~~ Clinical record information shall be safeguarded against loss or unauthorized use. ~~Written procedures shall govern the use and removal of records and conditions for release of information. A patient's written consent is required for release of information not authorized by law.~~

Authority Ga. L. 1980, p. 1793; O.C.G.A. Sec. 31-7-150 et seq. **History.** Original Rule entitled "Standards for Patient Care" was filed on January 6, 1981; effective February 6, 1981, as specified by the Agency. **Amended:** F. Oct. 21, 1993; eff. Nov. 10, 1993. **Amended:** F. Mar. 23, 1998; eff. Apr. 12, 1998.

~~290-5-38-.10 Penalties.~~

~~Any person who operates a Home Health Agency without first obtaining a license pursuant to the provisions of the Georgia Home Health Agency Act shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not to exceed \$500.00 or imprisoned for a period not to exceed six months or both.~~

Authority Ga. L. 1980, p. 1794. **History.** Original Rule entitled "Penalties" was filed on January 6, 1981; effective February 6, 1981, as specified by the Agency.

~~290-5-38-.11 Fees.~~

~~Each application for initial and annual renewal licenses shall be accompanied by a fee as prescribed by the Department.~~

Authority Ga. L. 1980, p. 1794. **History.** Original Rule entitled "Fees" was filed on January 6, 1981; effective February 6, 1981, as specified by the Agency.

~~290-5-38-.12 Enforcement.~~

~~The administration and enforcement of these rules and regulations shall be as prescribed in the "Georgia Administrative Procedure Act," acts 1964, p. 338, et seq., as amended.~~

Authority Ga. L. 1964, p. 338, et seq., as amended; and Ga. L. 1980, pp. 1790-1795. **History.** Original Rule entitled "Enforcement" was filed on January 6, 1981; effective February 6, 1981, as specified by the Agency.

~~290-5-38-.13 Applicability of Regulations.~~

~~These regulations are applicable only to Home Health Agencies as defined herein and the services they provide, and do not modify or revoke any of the provisions of other published rules of the Department.~~

Authority Ga. L. 1980, p. 1790-1795. **History.** Original Rule entitled "Applicability of Regulations" was filed on January 6, 1981; effective February 6, 1981, as specified by the Agency.

~~290-5-38-.14 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 rule or portions thereof so determined, declared or adjudged invalid or unconstitutional were not originally a part hereof. It is the intent of the Board of Human Resources to establish rules and regulations that are constitutional and enforceable so as to safeguard the health and well being of the people of the State.~~

Authority Ga. L. 1980, pp. 1790-1795. **History.** Original Rule entitled "Severability" was filed on January 6, 1981; effective February 6, 1981, as specified by the Agency.

RULES
OF
DEPARTMENT OF ~~HUMAN RESOURCES~~
COMMUNITY HEALTH

HEALTHCARE FACILITY REGULATION~~PUBLIC HEALTH~~

CHAPTER ~~290-5-38111-8-31~~
HOME HEALTH AGENCIES

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~~290-5-38111-8-31~~-01 Purpose.

Under the authority of Georgia Laws 1980, p. 1790, et seq., O.C.G.A. Sec. 31-7-150, the Department of ~~Human Resources-Community Health~~ is authorized and required to establish the licensing procedures and standards of operation for ~~Home-home Health-health Agencies-agencies~~ operating in this State. These rules and regulations are provided for this purpose.

Authority ~~Ga. L. 1980, p. 1790, et seq.~~ O.C.G.A. Sec. 31-7-150 et seq. **Administrative History.** Original Rule entitled "Purpose" was filed on January 6, 1981; effective February 6, 1981, as specified by the Agency.

290-5-38111-8-31-.02 Applications and Licenses.

Each person, private or public organization, political subdivision, or other governmental agency desiring to operate a ~~Home Health Agency~~ home health agency, as defined herein, must first apply for and obtain a license using the forms furnished by the Department of ~~Human Resources~~ Community Health. A license is not assignable or transferable and is subject to suspension or revocation at any time for failure to comply with these rules and regulations.

(a) Applications.

1. The governing body of the ~~Home Health Agency~~ home health agency shall submit to the Department an application for a license of each agency and/or subunit. Such application(s) shall be signed by the executive officer of the governing body.

2. The application for a license shall be filed at least thirty (30) days prior to the anticipated date of opening and commencement of operation of a new ~~Home Health Agency~~ home health agency.

3. Corporations shall submit a copy of their charter and the name and address of all owners with five percent or more of the stock and shall identify each corporate officer.

4. An application for a change in service(s) or service area(s) which is subject to review under ~~Ga. Code Chapter 88-33~~ O.C.G.A. Sec. 31-6-1 et seq. and applicable rules shall be accompanied by a letter of approval from the ~~State Office of Health Planning and Development Agency within the Division of Healthcare Facility Regulation~~, Department of Community Health.

(b) Licenses.

1. To be eligible for a license, the ~~Home Health Agency~~ home health agency must be in satisfactory compliance with these rules and regulations and other applicable Federal, State and local laws.

2. The license shall be returned to the Department when the ~~Home Health Agency~~ home health agency ceases to operate, or is leased, or is moved to another location, or the ownership changes, or the license is suspended or revoked.

3. Any person or agency wishing to appeal the denial, suspension or revocation of a license is entitled to request a hearing under the provisions of the "Georgia Administrative Procedure Act."

4. Licenses will be renewed on an annual basis.

5. The license shall be prominently and appropriately displayed.

Authority ~~Ga. L. 1980, pp. 1790, 1793.~~ O.C.G.A. Secs. 31-6-1 et seq, 31-7-150 et seq. and 50-13-13 et seq. **Administrative History.** Original Rule entitled "Applications and Licenses" was filed on January 6, 1981; effective February 6, 1981, as specified by the Agency.

~~290-5-38111-8-31~~-03 **Certificate of Need and 1122 Review.**

~~Home Health Agencies~~ agencies which are required by ~~S~~state laws to obtain a ~~Certificate~~ certificate of ~~Need~~ need shall submit evidence that such requirements have been met when applying for a license.

Authority ~~Ga. L. 1980, p. 1794~~ O.C.G.A. Secs. 31-6-1 et seq. and 31-7-155. **Administrative History.** Original Rule entitled "Certificate of Need and 1122 Review" was filed on January 6, 1981; effective February 6, 1981, as specified by the Agency.

~~290-5-38111-8-31~~-04 **Exemptions.**

These rules and regulations shall not apply to services which are provided under the following conditions:

(a) Persons who provide personal or paraprofessional health services, either with or without compensation when there is no claim that the service is provided as a part of a licensed ~~Home Health Agency~~ home health agency;

(b) Persons who provide professional services for which they are duly licensed under Georgia laws, when there is no claim that the service is provided as a part of a licensed ~~Home Health Agency~~ home health agency;

(c) Services provided under the provisions of any other license issued by the State of Georgia when there is no claim that the service is provided as a part of a licensed or certified ~~Home Health Agency~~ home health agency;

(d) Any ~~Home Health Agency~~ home health agency certified in a ~~Federal~~ federal program for reimbursement of Medicare or Medicaid services shall be exempt from an additional on-site licensure inspection upon presentation of evidence of such certification.

Authority ~~Ga. L. 1980, p. 1791.~~ O.C.G.A. Secs. 31-2-7 and 31-7-150 et seq. **Administrative History.** Original Rule entitled "Exemptions" was filed on January 6, 1981; effective February 6, 1981, as specified by the Agency.

290-5-38111-8-31-.05 Inspections.

For the purpose of insuring compliance with these rules and regulations, each ~~Home Health Agency~~home health agency shall be subjected to periodic inspections by an authorized representative of the Department. Such inspections shall take place during reasonable hours and, if possible, during scheduled operating hours. The administrator or his representative shall accompany the Department representative on tours of inspection and shall ~~Sign~~sign the completed checklist.

Authority Ga. L. 1980, pp. 1793, 1794 O.C.G.A. Sec. 31-7-150 et seq. **Administrative History.** Original Rule entitled "Inspections" was filed on January 6, 1981; effective February 6, 1981, as specified by the Agency.

290-5-38-.06 Definitions.

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

(a) "Administrator" means the full-time person by whatever title used, to whom the governing body has delegated the responsibility for day-to-day administration of the ~~Home Health Agency~~home health agency, including the implementation of the rules and policies adopted by the governing body, and who:

1. is a licensed physician; or

2. is a registered nurse; or

3. has training and experience in health service administration and at least one (1) year of supervisory or administrative experience in home health care or related health programs.

(b) "Board" means the Board of ~~Human Resources~~Community Health.

(c) "Branch Office" means a location or site identified in the application or endorsement thereto from which a ~~Home Health Agency~~home health agency provides services within a portion of the total geographic area served by the parent agency. The branch office is part of the ~~Home Health Agency~~home health agency and is located sufficiently close to share administration, supervision, and services in a manner that renders it unnecessary for the branch independently to meet the requirements of these rules and regulations.

(d) "By-Laws" means a set of rules adopted by a ~~Home Health Agency~~home health agency for governing the agency's operation.

|(e) "Certificate of Need" shall have that meaning as defined in ~~Ga. Code Chapter 88-33~~O.C.G.A. Sec. 31-6-1 et seq. and applicable rules.

|(f) "Clinical Note" means a dated and signed written notation by the providing member of the health team of a contact with a patient containing a description of signs and symptoms, treatment and drug given, the patient's reaction, and any changes in physical or emotional condition.

|(g) "Department " means the Georgia Department of ~~Human Resources~~Community Health.

|(h) "Governing Body" means the person or persons, natural or corporate, in which the ultimate responsibility, authority and accountability for the conduct of the ~~Home Health Agency~~home health agency is vested.

|(i) "Health Professionals" means those professionals engaged in the delivery of health services Who are currently licensed to practice in the State of Georgia, or are certified, or practice under authority consistent with Georgia laws.

|(j) "Home Health Agency" means: a public, non-profit, or proprietary organization; whether owned or operated by one or more persons or legal entities, which is engaged in providing home health services.

|(k) "Home Health Services" means those items and services provided to an individual, according to a written plan of treatment signed by the patient's physician, by a ~~Home Health Agency~~home health agency or others under arrangement with the ~~Home Health Agency~~home health agency on a visit or hourly basis, in a place of temporary or permanent residence used as the individual's home as follows:

_| 1. part-time or intermittent skilled nursing care as ordered by a physician and provided by or under the supervision of a registered nurse and at least one other service listed below;

_| 2. physical, occupational, or speech therapy;

_| 3. medical social services;

_| 4. home health aide services.

|(l) "License" means a license issued by the Department.

|(m) "Licensee" means the individual, corporation, or public entity with whom rests the ultimate responsibility for maintaining approved standards for the ~~Home Health Agency~~home health agency.

|(n) "Licensed Practical Nurse or LPN" means an individual who is currently licensed as a licensed practical nurse in Georgia.

|(o) "Occupational Therapist" means a qualified individual who:

|_1. Is currently licensed as an occupational therapist in Georgia; and

|_2. Meets the ~~Federal~~federal conditions for participation.

|(p) "Occupational Therapy Assistant" means a qualified individual who:

|_1. Is currently licensed as an occupational therapy assistant in Georgia and assists in the practice of occupational therapy under the supervision and direction of a Georgia licensed occupational therapist; and

|_2. Meets the Federal conditions for participation.

|(q) "Parent Home Health Agency" means the agency that develops and maintains administrative controls of subunits or branch offices.

|(r) "Physical Therapist" means a qualified individual who:

|_1. Is currently licensed as a physical therapist in Georgia; and

|_2. Meets the Federal conditions for participation.

|(s) "Physical Therapy Assistant" means a qualified individual who:

1. Is currently licensed as a physical therapy assistant in Georgia and assists in the practice of physical therapy under the supervision and direction of a Georgia licensed physical therapist; and

|_2. Meets the ~~Federal~~federal conditions for participation.

|(t) "Physician" means an individual who is currently licensed or authorized to practice medicine and surgery in Georgia.

|(u) "Plan of Treatment" means an individual plan written, signed, and reviewed at least every sixty days by the patient's physician prescribing items and services for the patient's condition.

|(v) "Primary Home Health Agency" means the ~~Agency~~agency (~~Parent~~parent or ~~Subunit~~subunit) that is responsible for the service rendered to patients and for implementation of the plan of treatment.

|(w) "Progress Note" means a dated and signed written notation by the providing member of the health team, summarizing facts about care and the patient's response during a given period of time.

|(x) "Registered Nurse or RN" means an individual who is currently licensed as a registered professional nurse in Georgia.

|(y) "Service Area" means the geographical area in which a ~~Home Health Agency~~home health agency provides services, as defined by the State Health Planning and Development unit of the Department~~Agency~~.

|(z) "Social Work Assistant" means an individual who meets the ~~Federal~~federal conditions of participation and applicable Georgia ~~Laws~~laws.

|(aa) "Social Worker" means an individual who meets the ~~Federal~~federal conditions of participation and applicable Georgia ~~Laws~~laws.

|(bb) "Speech Pathologist" and/or "Audiologist" means a qualified individual who:

_| 1. Is currently licensed as a speech pathologist and/or audiologist in Georgia; and

_| 2. Meets the ~~Federal~~federal conditions of participation.

|(cc) "Subunit" means a semiautonomous organization, which serves patients in a geographic area different from that of the parent agency. The subunit by virtue of the distance between it and the parent agency is judged incapable of sharing administration, supervision, and services on a daily basis with the parent agency, and must, therefore, independently meet the licensing requirements for a ~~Home Health Agency~~home health agency, and shall be separately licensed.

|(dd) "Supervision" means authoritative procedural guidance by a qualified person for the accomplishment of a function or activity with initial direction and periodic inspection of the actual act of accomplishing the function or activity.

Authority ~~Ga. L. 1980, pp. 1790, 1791, 1792, 1793~~O.C.G.A. Secs. 31-2-4 et seq. and 31-7-150 et seq.
Administrative History. Original Rule entitled "Definitions," was filed on January 6, 1981; effective February 6, 1981. as specified by the Agency.

290-5-38111-8-31-07 Administrative Standards.

|(1) Organizations, Services, Administration. Organizations, services provided, administrative control, and lines of authority for the delegation of responsibility down to the patient care level shall be clearly set forth in written policies and procedures. Administrative and supervisory functions shall not be delegated to another agency or organization. Services not provided directly shall be monitored

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and controlled by the primary agency, including services provided through subunits of the parent agency. If an agency has subunits, appropriate administrative records shall be maintained for each subunit.

_(2) Governing Body. There shall be a Governing governing Body-body which assumes full legal authority and responsibility for the operation of each Home Health Agencyhome health agency. The Governing governing Body-body shall appoint a qualified administrator, arrange for professional advice, adopt and periodically review written bylaws and oversee the management and fiscal affairs of the agency. The name and address of each officer, directors, and owner shall be disclosed to the Department. If the agency is a corporation, all ownership interests of five (5) percent or more (direct or indirect) shall also be disclosed.

_(3) Group of Professional Personnel.

_(a) A group of professional personnel, which shall include at least one physician and one registered nurse, with appropriate representation from other professional disciplines, shall establish and annually review the policies of each Home Health Agencyhome health agency governing scope of services offered, admission and discharge policies, medical supervision and plans of treatment, emergency care, clinical records, personnel qualifications, and program evaluation. There must be at least one member of the group who is neither an owner nor an employee of the agency.

_(b) The group of professional personnel shall meet at least once per quarter unless circumstances require more often to advise the agency on professional issues, to participate in the evaluation of the agency's program, and to assist the agency in maintaining liaison with other health care providers in the community and in its community information program. The minutes shall be documented by dated minutes.

_(4) Administrator. The administrator (who may also be the supervising physician or registered nurse), is responsible for organizing and directing the agency's ongoing functions; maintaining ongoing liaison among the Governing governing Bodybody, the group of professional personnel, and the staff; employing qualified personnel and ensuring adequate staff education and evaluations; ensuring the accuracy of public information, materials and activities; and implementing an effective budgeting and accounting system. A qualified person shall be authorized in writing to act in the absence of the administrator.

_(5) Supervising Physician or Registered Nurse. Skilled nursing and other therapeutic services provided shall be under the supervision and direction of a physician or a registered nurse. This person or similarly qualified alternate shall be available at all times during operating hours and: participate in all activities relevant to the professional services provided, including the developing of qualifications and assignments of personnel.

|(6) Personnel Policies. Personnel practices shall be supported by appropriate, written personnel policies. Individual personnel records shall include job descriptions, qualifications, licenses, performance evaluations, and health examinations, and shall be kept current. If personnel under hourly or per visit contracts are utilized by the ~~Home Health Agency~~home health agency, there shall be a written contract between such personnel and the agency clearly designating:

|(a) that patients are accepted for care only by the primary ~~Home Health Agency~~home health agency;

|(b) the services to be provided;

|(c) the necessity to conform to all applicable agency policies including personnel qualifications;

|(d) the responsibility for participating in developing plans of treatment;

|(e) the manner in which services will be controlled, coordinated, and evaluated by the primary agency;

|(f) the procedures for submitting clinical and progress notes, scheduling of visits, periodic patient evaluation; and

|(g) the procedure for determining charges and reimbursement.

|(7) Planning and Budget. A ~~Home Health Agency~~home health agency, under the direction of the ~~Governing governing Body~~body, shall prepare an overall plan and budget which provides for an annual operating budget. If capital expenditures are anticipated, a three-year capital expenditure plan shall be provided and updated annually. The overall plan, budget and capital expenditure plan shall be reviewed and updated at least annually.

|(8) Evaluation.

|(a) A ~~Home Health Agency~~home health agency shall have written policies requiring an overall evaluation of the agency's total program at least once a year by the group of professional personnel (or a committee of this group), ~~Home Health Agency~~home health agency staff, and consumers; or by professional people outside the agency working in conjunction with consumers. The evaluation shall consist of an overall policy and administrative review and a clinical record review. The evaluation shall assess the extent to which the agency's program is appropriate, adequate, effective and efficient. Results of the evaluation shall be reported to the ~~Governing governing Body~~body and maintained separately as administrative records. Mechanisms shall be

established in writing for the collection of pertinent data to assist in this evaluation. This data to be considered may include but is not limited to:

1. number of patients receiving each service offered;

2. number of patient visits;

3. reasons for discharge;

4. breakdown by diagnosis;

5. sources of referral;

6. number of patients not accepted with reasons; and

7. total staff days for each service offered.

(b) At least quarterly, appropriate health professionals representing at least the scope of the program, shall review a sample of both active and closed clinical records to assure that established policies are followed in providing services (direct services as well as services under arrangement). Evidence of this review shall be documented by dated minutes.

Authority ~~Ga. L. 1980, p. 1793~~ O.C.G.A. Secs. 31-2-4 et seq. and 31-7-150 et seq.

Administrative History. Original Rule entitled "Administrative Standard," was filed on January 6, 1981; effective February 6, 1981, as specified by the Agency.

290-5-38111-8-31-.08 Scope of Services.

A ~~Home Health Agency~~home health agency shall provide part-time or intermittent skilled nursing services and at least one other therapeutic service, e.g., physical, speech, or occupational therapy; medical social services; or home health aide services. Services shall be made available on a visiting basis, in a place of residence, as a patient's home.

(a) Nursing Services. A ~~Home Health Agency~~home health agency shall provide skilled nursing service by or under the supervision of a registered nurse and in accordance with the plan of treatment.

1. Duties of the ~~registered~~Registered nurse~~Nurse~~ (RN). A registered nurse shall make the initial evaluation visit, regularly reevaluate the patient's nursing needs, initiate the plan of treatment and necessary revisions, provide those services requiring substantial specialized nursing skill, initiate appropriate preventive and rehabilitative nursing procedures, prepare clinical and progress notes, coordinate services inform the physician and other personnel of changes in the patient's condition and needs, counsel the patient and family in meeting

nursing and related needs, participate in inservice programs, and supervise and teach other personnel.

2. Duties of the ~~licensed Licensed practical Practical nurse Nurse~~ (LPN). The licensed practical nurse shall provide services in accordance with agency policies, prepare clinical and progress notes, assist the physician and/or registered nurse in performing specialized procedures, prepare equipment and materials for treatments observing aseptic technique as required and assist the patient in learning appropriate self-care techniques.

(b) Therapy Services. All therapy services offered by the ~~Home Health Agency~~ home health agency directly or under arrangement shall be given by a qualified therapist in accordance with the plan of treatment. The qualified therapist shall assist the physician in evaluating level of function, help develop the plan of treatment (revising as necessary), prepare clinical and progress notes, advise and consult with the family and other agency personnel, and participate in inservice programs. Therapy services include, but are not limited to:

1. Physical Therapy;

2. Occupational Therapy;

3. Speech Therapy;

4. Audiology.

(c) Medical Social Services. Medical social services, when provided, shall be given by a qualified social worker in accordance with the plan of treatment. The social worker shall assist the physician and other team members in understanding the significant social and emotional factors related to the health problems, participate in the development of the plan of treatment, prepare clinical and progress notes, work with the family, utilize appropriate community resources, participate in discharge planning and inservice programs, and act as a consultant to other agency personnel.

(d) Home Health Aide Services.

1. Home health aides shall be selected on the basis of such factors as a sympathetic attitude toward the care of the sick; ability to read, write, and carry out directions; and maturity and ability to deal effectively with the demands of the job. Aides shall be carefully trained in at least the following areas: methods of assisting patients to achieve maximum self-reliance, principles of nutrition and meal preparation, the aging process and emotional problems of illness, procedures for maintaining a clean, healthful, and pleasant environment, recognizing changes in a patient's condition that should be reported, work of the

agency and the health team; ethics, confidentiality, and recordkeeping. Aides shall be closely supervised to assure their competence in providing care.

2. A home health aide shall be assigned to a particular patient by a registered nurse. Written instructions for patient care shall be prepared by a registered nurse or therapist as appropriate. Home health aide duties shall be limited to the performance of simple procedures such as an extension of therapy services, personal care, ambulation and exercise, household services essential to health care at home, assistance with medications that are ordinarily self-administered, reporting changes in the patient's condition and needs, and completing appropriate records.

3. A registered nurse, or other appropriate professional staff member, if other services are provided, shall make a supervisory visit to the patient's residence at least every two weeks, either when the aide is present to observe and assist, or when an aide is absent, to assess relationships and determine whether goals are being met. A record of the supervisory visit shall be dated and documented by a clinical note in the patient clinical record.

(e) Coordination of Patient Services. All personnel providing services shall maintain a liaison with the ~~Home Health Agency~~home health agency to assure that their efforts effectively complement one another and support the objectives outlined in the plan of treatment. The clinical record shall contain dated minutes of case conferences verifying that effective interchange, reporting, and coordinated patient evaluation does occur. A written summary report of clinical and progress notes for each patient shall be sent to the attending physician at least every sixty (60) days and upon discharge. A copy of these reports shall become a permanent part of the patient's clinical record.

(f) Services Under Arrangements. All services provided under arrangements shall be subject to a written contract. Contracts for home health services shall conform with the specific requirements of Rule ~~290-5-38111-8-31~~111-8-31-.07-(6)(a) through (g).

Authority Ga. L. 1980, pp. 1790, 1791, 1792, 1793.O.C.G.A. Secs. 31-2-4 et seq. and 31-7-150 et seq. **History.** Original Rule entitled "Scope of Services" was filed on January 6, 1981; effective February 6, 1981, as specified by the Agency.

290-5-38111-8-31-.09 Standards for Patient Care.

Patients shall be accepted for treatment on the basis of a reasonable expectation that the patient's medical, nursing, and social needs can be met adequately by the agency in the patient's place of residence. Patients shall not be denied services because of their age, sex, race, religion, or national origin. Care shall follow a written plan of treatment established and periodically reviewed by a physician, and shall continue under the supervision of a physician.

| (a) Plan of Treatment. An individual plan of treatment shall be developed for each patient in consultation with agency staff, and shall cover all pertinent diagnosis, including mental status, types of services and equipment required, frequency of visits, prognosis, rehabilitation potential, functional limitations, activities permitted, nutritional requirements, medications and treatments, safety measures to protect against injury, instructions for timely discharge or referral, and other appropriate items. If a physician refers a patient under a plan of treatment which cannot be completed until after an evaluation visit, the physician shall be consulted to approve additions or modifications to the original plan. Orders for therapy services shall specify the procedures and modalities to be used, and the amount, frequency, and duration.

| (b) Periodic Review of Plan of Treatment. The total plan of treatment shall be reviewed by the attending physician and ~~Home Health Agency~~home health agency personnel as often as the severity of the patient's condition requires, but at least once every sixty (60) days. Date of the review and approval of the plan shall be documented by the physician's signature. Agency professional staff shall promptly alert the physician to any changes that suggest a need to alter the plan of treatment.

| (c) Conformance with Physician's Orders. Drugs and treatment shall be administered by agency staff only as ordered by the physician. The nurse or therapist shall immediately record and sign oral orders and forward the written order within five (5) business days to the physician for countersignature. Documentation of the physician's countersignature must appear in the patient's medical record within thirty (30) days of the verbal order. Professional agency staff shall check all medicines a patient may be taking to identify possible ineffective drug therapy or adverse reactions, significant side effects, drug allergies, and contraindicated medication, and shall promptly report any problems to the physician.

| (d) Clinical Records.

| 1. A clinical record shall be established and maintained on each patient in accordance with accepted professional standards and shall contain:

| (i) pertinent past and current findings;

| (ii) plan of treatment;

| (iii) appropriate identifying information;

| (iv) name of physician;

| (v) drug, dietary, treatment and activity orders;

| (vi) signed and dated clinical and progress notes (clinical notes are written the day service is rendered by the providing member of the health team and incorporated no less often than weekly);

| (vii) copies of case conferences;

| (viii) copies of summary reports sent to the physician; and

| (ix) a discharge summary.

| 2. If a patient transfers to another ~~Home Health Agency~~home health agency or a health facility, a copy of the record or abstract shall be furnished to accompany the patient.

| 3. Sufficient space and equipment for record processing, storage and retrieval shall be provided.

| 4. Policies and procedures shall be written and implemented to assure organization and continuous maintenance of the clinical records system.

| (e) Retention of Records. Clinical records shall be retained for a period of six years after the last patient encounter for adults, and for six years after a minor reaches the age of majority. These records may be retained as originals, microfilms, or other usable forms and shall afford a basis for complete audit of professional information. If the ~~Home-home Health-health Agency-agency~~ dissolves or changes ownership, a plan for record retention shall be developed and placed into effect. The Department shall be advised of the disposition and/or location of said records.

| (f) Protection of Records. Clinical record information shall be safeguarded against loss or unauthorized use. Written procedures shall govern the use and removal of records and conditions for release of information. A patient's written consent is required for release of information not authorized by law.

| Authority ~~Ga. L. 1980, p. 1793~~; O.C.G.A. Sec. 31-7-150 et seq. **History.** Original Rule entitled "Standards for Patient Care" was filed on January 6, 1981; effective February 6, 1981, as specified by the Agency. **Amended:** F. Oct. 21, 1993; eff. Nov. 10, 1993. **Amended:** F. Mar. 23, 1998; eff. Apr. 12, 1998.

| **290-5-38111-8-31-.10 Penalties.**

| Any person who operates a ~~Home-home Health-health Agency-agency~~ without first obtaining a license pursuant to the provisions of the Georgia Home Health Agency Act shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not to exceed \$500.00 or imprisoned for a period not to exceed six months or both.

Authority ~~Ga. L. 1980, p. 1794.~~ O.C.G.A. Sec. 31-7-158. **History.** Original Rule entitled "Penalties" was filed on January 6, 1981; effective February 6, 1981, as specified by the Agency.

290-5-38111-8-31-.11 Fees.

Each application for initial and annual renewal licenses shall be accompanied by a fee as prescribed by the Department.

Authority ~~Ga. L. 1980, p. 1794.~~ O.C.G.A. Secs. 31-2-4 et seq. and 31-7-150 et seq. **History.** Original Rule entitled "Fees" was filed on January 6, 1981; effective February 6, 1981, as specified by the Agency.

290-5-38111-8-31-.12 Enforcement.

The administration and enforcement of these rules and regulations shall be as prescribed in the "Georgia Administrative Procedure Act," O.C.G.A. Sec. 50-13-1 et seq. acts 1964, p. 338, et seq., as amended.

Authority ~~Ga. L. 1964, p. 338, et seq., as amended; and Ga. L. 1980, pp. 1790-1795.~~ O.C.G.A. Secs. 31-2-4 et seq. and 50-13-1 et seq. **History.** Original Rule entitled "Enforcement" was filed on January 6, 1981; effective February 6, 1981, as specified by the Agency.

290-5-38111-8-31-.13 Applicability of Regulations.

These regulations are applicable only to ~~Home-home Health-health Agencies~~ agencies as defined herein and the services they provide, and do not modify or revoke any of the provisions of other published rules of the Department.

Authority ~~Ga. L. 1980, p. 1790-1795.~~ O.C.G.A. Sec. 31-2-4 et seq. and 31-7-150 et seq. **History.** Original Rule entitled "Applicability of Regulations" was filed on January 6, 1981; effective February 6, 1981, as specified by the Agency.

290-5-38111-8-31-.14 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 rule or portions thereof so determined, declared or adjudged invalid or unconstitutional were not originally a part hereof. It is the intent of the Board of ~~Human Resources~~ Community Health to establish rules and regulations that are constitutional and enforceable so as to safeguard the health and well being of the people of the State.

Authority ~~Ga. L. 1980, pp. 1790-1795.~~ O.C.G.A. Sec. 31-2-4 et seq. and 31-7-150 et seq. **History.** Original Rule entitled "Severability" was filed on January 6, 1981; effective February 6, 1981, as specified by the Agency.