

**RULES OF  
DEPARTMENT OF COMMUNITY HEALTH**

**CHAPTER 111-8  
HEALTHCARE FACILITY REGULATION**

**SUBJECT 111-8-2  
RULES AND REGULATIONS FOR ADULT RESIDENTIAL MENTAL HEALTH  
SERVICES PROGRAMS**

**SYNOPSIS OF PROPOSED RULES**

**STATEMENT OF PURPOSE:** The Georgia Department of Community Health proposes new Rules and Regulations for Healthcare Facility Regulation, Adult Residential Mental Health Services Programs, Ga. Comp. Rules & Regs., r. 111-8-2-.01, et seq. This rule is being proposed pursuant to the authority granted the Department of Community Health in O.C.G.A. § 37-3-200, et seq.

**MAIN FEATURES OF THE PROPOSED RULES:** These rules and regulations are a new subject within the Healthcare Facility Regulation chapter to establish minimum standards for Adult Residential Mental Health Services Programs. These rules and regulations are required by O.C.G.A. § 37-3-200, et seq. The rules and regulations establish minimum standards for facility governing body and administration; licensure requirements and enforcement processes and penalties; admission, discharge, care, and services; building and functional design standards; staffing requirements; criminal background checks; medication administration, storage, and dispensement; food and nutrition standards; disaster preparedness planning; establishing a procedure for enforcement of individual rights and grievances; recordkeeping maintenance requirements; procedures to protect confidentiality of individuals seeking treatment; departmental inspections; invoking the powers of the disability services ombudsman over facilities; and providing for the department's discretionary waiver and variance authority.

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### **111-8-2-01 Authority**

The legal authority for this Chapter is found in O.C.G.A. §§ 37-3-200 et seq, and Chapter 7 of Title 31.

Authority: O.C.G.A. § 37-3-200, et seq.; O.C.G.A. §§ 31-2-4, 31-2-7, 31-7-2.1

### **111-8-2-02 Purpose**

The purpose of these rules and regulations is to establish the minimum standards for the licensure and operation of adult residential mental health programs.

Authority: O.C.G.A. § 37-3-200, et seq.; O.C.G.A. §§ 31-2-4, 31-2-7, 31-7-2.1

### **111-8-2-03 Definitions**

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

(1) “Adult residential mental health program” or “ARMHP” means a subacute residential alternative service of four or more residential beds authorized to provide psychiatric services for mentally ill persons 18 years of age or older that operates 24 hours per day, 7 days per week to provide intensive short-term noninstitutional treatment to individuals who are temporarily in need of a 24-hour-per-day supportive therapeutic setting for prevention of or transition from or after acute psychiatric hospitalization. Such term shall not include crisis stabilization units, as defined in O.C.G.A. § 37-1-29; community living arrangements, as defined by the Department of Behavioral Health and Developmental Disabilities; mental health programs conducted by accountability courts; or residential beds operated by a state or local public entity.

(2) “Administrator” means the name of the person to whom is delegated the responsibility for the management of the ARMHP, including but not limited to, the carrying out of rules and policies adopted by the governing body.

(3) “Applicant” means any individual affiliated with the governing body submitting an application to operate an ARMHP.

(4) “Department” means the Department of Community Health of the State of Georgia.

(5) “Facility” means the single physical location where ARMHP services are rendered.

(6) “Governing Body” means the partnership, corporation, limited liability company, association, or person or group of persons who maintains and controls the ARMHP and who is legally responsible for its operation.

(7) “Individual” means a person seeking and obtaining services at an ARMHP, unless otherwise specified.

(8) “License” or “permit” means the authorization granted by the Department to the governing body to operate an ARMHP.

(9) “Licensee” means the holder of an ARMHP license.

(10) “Mental health professional” means a psychiatrist, psychiatric or mental health nurse practitioner, or an individual who has obtained a Doctor of Philosophy (Ph.D.) in a field of psychology or Doctor of Psychology (Psy.D.), a master’s degree (M.S. or M.A.) in a mental-health related field such as psychology, counseling psychology, marriage or family therapy, or social work and is duly licensed to practice their profession in the State of Georgia.

(11) “Mentally ill person” means a person who has significant deficits in functioning affecting social and family relationships, work, self-care, educational goals, or legal involvements due to his or her primary diagnosis or assessment of a psychotic disorder, mood disorder, anxiety disorder, dissociative disorder, obsessive-compulsive disorder, adjustment disorder, personality disorder, or trauma and stress related disorder as listed in the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders (DSM-5) or the World Health Organization’s International Classification of Diseases, in effect as of July 1, 2022.

(12) “Physician” means an individual who is currently licensed to practice medicine in the State of Georgia. These rules shall not prohibit other licensed medical professionals, such as physician assistants or advanced practice registered nurses, from performing acts required of a licensed physician under these rules where such acts are allowed under applicable state scope of practice laws and regulations.

(13) “Staff” means any person who performs duties in the ARMHP on behalf of the ARMHP, including but not limited to employees, contractors, administrators, on-site managers, and owners and other governing body members.

Authority: O.C.G.A. §§ 37-3-202, 31-2-4, 31-2-7, 31-7-2.1

#### **111-8-2-.04 Governing Body and Administration**

(1) There shall be a governing body which assumes full legal responsibility for the overall conduct of the ARMHP and an administrator reporting to the governing body. The administrator must be at least 21 years of age and must have at least one-year of experience in managing a health care facility and supervising health care staff.

(2) There shall be full disclosure of ARMHP ownership and governing body to the Department at the time of the initial application and upon request from the Department. In the case of corporations, limited liability companies, and partnerships, the names of all corporate officers, partners, members and all other individuals and entities owning five percent (5%) or more of corporate stock or ownership interests in the entity owning and operating the ARMHP shall be made known to the Department. Furthermore, the governing body must submit a new application in advance of any ownership changes in accordance with Ga. R. & Regs. r. 111-8-2-.06(10)(b).

(3) The governing body shall be responsible for compliance with all applicable laws and regulations pertaining to the ARMHP.

(4) The governing body shall provide the name and credentials of the administrator at the time of initial application and provide the Department written notice of any change to the administrator within thirty (30) days following such change.

(5) The governing body must adopt and abide by a code of ethics pertaining to each member of the governing body and its administrator. At a minimum, the code of ethics shall include a conflict of interest policy, whistleblower policy, sexual harassment policy, discrimination policy, and other policies required for proper governance.

(6) The words "sanitorium," or "sanitarium" shall not be used in the official title or marketing materials of any ARMHP permitted under the provisions of these rules and regulations. The word "hospital" shall not be used in the official title or marketing materials of any ARMHP unless services are offered by a hospital licensed in accordance with Chapter 7 of Title 31 of the Official Code of Georgia Annotated and the hospital is not operating an ARMHP that is separate and distinct from the licensed hospital.

(7) The governing body and administrator shall develop and implement policies, procedures and practices that support the core values of dignity, respect, choice, independence and privacy of the individuals in a safe environment and in accordance with these rules. A copy of the ARMHP policies and procedures must be provided to the individual upon admission, or prior to admission if requested by an individual considering treatment at the facility. At a minimum, such policies and procedures must comply with all these rules and regulations and provide clear instruction for the staff and individuals on the following matters:

- (a) The services available in the ARMHP and provide direction on how individuals may access such services.
- (b) Admissions, discharges and transfers which ensure that the ARMHP does not admit or retain individuals who need more care than the facility is authorized for or capable of providing.
- (c) A code of conduct and statement of rights for all individuals in accordance with Ga. Comp. R. & Regs. r. 111-8-2-.15.
- (d) Payment for services, including optional services, and refund policy when an individual is transferred or discharged.
- (e) Training and ongoing evaluation of staff, including offerings of any specialized training.
- (f) Facility rules applicable to staff and individuals and their enforcement.
- (g) Protecting the rights of the staff and individuals as set forth in these rules;
- (h) Medication management, controls, procurement and the professional oversight provided for such services.
- (i) Health and hygiene requirements for the facility, individuals, and staff, including but not limited to, issues relating to illness and infection control, work policies and return to work policies, food-borne illnesses and reportable diseases. The policy shall also include any restrictions on individuals' ability to utilize designated substances, such as nicotine and caffeine, and the facility's expectations regarding same.
- (j) Clear instructions for method of reporting and investigation of claims of abuse, neglect, harassment, discrimination, or exploitation of individuals and staff. Furthermore, the policies and procedures shall detail requirements for the reporting of accidents, injuries, voluntary discharge from the facility, and changes in individuals' conditions and status to family members, legal surrogates, and required parties.
- (k) Discipline procedures for handling conduct which is inconsistent with the policies of the facility committed by staff, and circumstances which may lead to discharge by the facility.
- (l) Emergency preparedness, drills and evacuation requirements.

(m) Quality assurance and peer review mechanisms to determine opportunities for improving care utilizing information acquired from reports and investigations of serious incidents, including individual and family feedback.

(n) Individuals' rights and obligations to receive visitors and responsibilities and obligations regarding visitors' access to the facility.

(o) Individuals' ability to use electronic equipment including but not limited to, mobile phones, computers, tablets, televisions, audio equipment, video game devices, and other equipment utilized for entertainment.

(p) The safety and security precautions that will be employed by the facility to protect individuals from harm by other individuals and staff.

(q) The staffing plan which takes into account the specific needs of the individuals and also includes arrangements for staffing in the absence of regularly scheduled staff.

(r) Procedures ensuring the confidentiality of individuals' records and security measures to ensure that all individual records shall be maintained on a confidential basis.

Authority: O.C.G.A. §§ 37-3-204, 31-2-4, 31-2-7, 31-7-2.1

### **111-8-2-.05 Application for Permit**

(1) The governing body of each ARMHP must submit to the Department an application for a permit in order to operate. The application for a permit must be made on forms made available by the Department or in a format acceptable to the Department.

(2) No application for licensure will be acted upon by the Department unless it has been determined to be complete and include all required attachments and fees due the Department as specified in the Rules and Regulations for General Licensing and Enforcement Requirements, Subject 111-8-25.

(3) The application must truthfully, completely, and accurately disclose required information.

(4) Each application for a permit must be accompanied by an accurate floor plan showing windows, doors, common areas, and individual room measurements and digital copies in .jpg or .pdf format of pictures of the ARMHP's exterior, common areas and typical individual room.

(5) The name of the administrator must be included with the application for a permit. If such information is not known at the time of application, it must be provided to the Department before a permit will be issued.

(6) The ownership and officers of the ARMHP must be fully disclosed in the application for a permit. In the case of corporations, limited liability companies, partnerships, and other entities recognized by statute, the corporate officers and all other individuals, entities or family groups owning five percent (5%) or more of the corporate stock or ownership interests in the business entity owning and operating the ARMHP must be disclosed in the application, as well as the registered agent for service of process.

(7) Each application must include documentation confirming ownership or tenancy pursuant to a written lease agreement for the real property on which the ARMHP will be operated.

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

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

(10) Proof of compliance with all applicable federal and state laws for the handling and dispensing of medications, and all state and local health, safety, sanitation, building, and zoning codes shall be attached to the application submitted to the Department.

(11) The application process requires that the Department conduct an on-site inspection to determine if the ARMHP is in compliance with the licensing requirements and to confirm information set forth in the application for licensure.

(12) The application and license are subject to all requirements and obligations set forth in the Department's Rules and Regulations for General Licensing and Enforcement Requirements, Chapter 111-8-25.

(13) The application must include a copy of the ARMHP's program description and range of services which shall be reviewed by the governing body and administrator annually and updated as needed to align with the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-5) or the World Health Organization's International Classification of Diseases, in effect as of July 1, 2022, or such other versions which may be adopted in the future.

Authority: O.C.G.A. §§ 37-3-204, 37-3-205, 37-3-206, 37-3-207, 31-2-4, 31-2-7, 31-2-8, 31-7-2.1

### **111-8-2-.06 License Requirements**

(1) On and after January 1, 2024, no governing body shall operate an ARMHP without having a valid license or provisional license issued pursuant to this article; provided, however, that hospitals licensed in accordance with Chapter 7 of Title 31 of the Official Code of Georgia Annotated are exempt from this article unless the hospital is operating an ARMHP that is separate and distinct from the licensed hospital.

(2) The permit must be displayed at the facility in a conspicuous place that is visible to individuals and visitors.

(3) Permits are not transferable from one ARMHP or facility location to another.

(4) A permit is no longer valid when any of the following events occurs:

(a) The ARMHP is moved to another location which has not been licensed.

(b) The governing body changes without notification to the Department required pursuant to these rules.

(c) The permit is suspended or revoked.

(5) A separate permit is required for each ARMHP facility.

(6) An ARMHP must not serve more individuals than its approved licensed capacity, which is listed within the permit issued by the Department.

(7) An ARMHP must provide care as authorized by law and these rules.

(8) An ARMHP must disclose its licensure classification as an ARMHP issued by the Department in its marketing materials.

(9) An ARMHP must not operate or allow another business to operate at the facility where such business intrudes on the effective operation of the facility.

(10) The ARMHP must provide written notice to the Department of the following circumstances:

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

(b) a minimum of thirty (30) days prior written notice to the department and all patients of any impending change of ownership. The notice to the department shall be in the form of an application for license pursuant to these rules which must be approved by the Department before the permit is issued to the new owner(s). In the case of corporations, limited liability companies, partnerships, and other entities recognized by statute, such entities must complete a new license application in the event of changes of ownership of individuals, entities, or family groups owning five percent (5%) or more of the corporate stock or ownership interests in the business entity owning and operating the ARMHP.

(11) Notwithstanding the foregoing, a hospital duly licensed under Ga. R. & Regs. r. 111-8-40-.03 and in existence as of July 1, 2023 is not required to obtain a license prior to offering ARMHP or residential services so long as those services are provided in an existing hospital building, facility, or location or elsewhere on property presently owned, leased, or otherwise controlled by the hospital, including but not limited to the hospital campus, satellite facilities, and ancillary buildings and that the ARMHP is not operating in a manner that is separate and distinct from the hospital.

(12) The Department may accept proof of deemed status accreditation by the Joint Commission or accreditation by another accreditation body or certifying authority recognized and approved by the Department to demonstrate compliance with Department's licensure requirements, provided that such certification or accreditation constitutes compliance with standards that are substantially equivalent to these rules. Notwithstanding the foregoing, the Department or its designee shall conduct an initial and period on-site inspections to verify compliance with the department's licensing requirements in accordance with its regulatory and oversight authority.

Authority: O.C.G.A. §§ 37-3-204, 37-3-205, 37-3-206, 37-3-207, 37-3-209, 37-3-213, 31-2-4, 31-2-7, 31-2-8, 31-7-2.1

### **111-8-2-.07 Provisional License; Terms**

(1) The Department may issue a provisional license effective for a period not to exceed ninety (90) days to each applicant who has substantially complied with all requirements for a regular license. Provisional licenses shall be renewed at the discretion of the Department only in cases of extreme hardship and in no case for longer than 90 days.

(2) The obligations and conditions of a provisional license shall be the same as those of a regular license except as otherwise provided for in these rules.

(3) Between July 1, 2022, and December 31, 2023, the Department shall be authorized to grant a one-time provisional license for an ARMHP to an existing licensed

personal care home that substantially complies with the requirements of this Rule for a period not to extend beyond December 31, 2023. The duration limits set forth in Ga. Comp. R. & Regs. r. 111-8-2-.07(1) shall not apply to such one-time provisional licenses. The Department shall not grant one-time provisional licenses for ARMHPs after December 31, 2023, but may continue to issue provisional licenses pursuant to Comp. R. & Regs. r. 111-8-2-.07(1).

Authority: O.C.G.A. §§ 37-3-204, 37-3-205, 37-3-206, 37-3-207, 37-3-208, 37-3-209, 31-2-4, 31-2-7, 31-2-8, 31-7-2.1

### **111-8-2-.08 Admission and Discharge, Care, and Services**

#### **(1) Admission Criteria.**

(a) Mental Illness. In order to be admitted to an ARMHP, an individual must meet the definition of a mentally ill person. Mentally ill persons applying for admission and thereafter receiving services from an ARMHP are referred to within these Rules and Regulations as “individuals,” or “individuals receiving services” or similar designation.

(b) Referral Required. Individuals may be admitted to an ARMHP only by referral from an inpatient psychiatric hospital that is discharging a patient to an ARMHP or following a determination by a licensed psychiatrist that admission is required to provide stabilization, treatment, and care of the condition for which an inpatient admission to a psychiatric hospital is not required.

(c) Length of Stay. Length of stay shall be redetermined on a periodic basis through a mental health evaluation to include treatment goals and progress from the initial admission. Such mental health evaluation shall determine medical necessity for continued stay in the residential program with a maximum length of stay of six (6) months unless an individual case waiver is approved by the Department.

(2) Admission Agreement. Each ARMHP must utilize a written admission agreement signed by an individual with authority to bind the ARMHP and the individual receiving services. The admission agreement must meet the following minimum requirements:

(a) The admission agreement is written in plain and understandable language and is consistent with the information contained in the individual’s clinical record.

(b) Contain a current statement of all fees and daily, weekly or monthly charges; the services covered by those basic fees and any other services which the ARMHP provides on an additional fee basis.

(c) Contain a statement that individuals and their representatives or legal surrogates shall be informed, in writing, at least 30 days prior to any increase in established

charges related to the provision of personal services and at least 60 days prior to any increase in charges for room and board.

(d) Contain provisions regarding the administrator's continuous assessment of the individual's needs, referral for appropriate services as may be required if the individual's condition changes and referral for transfer or discharge if required due to a change in the individual's condition.

(e) Contain a description of how the facility responds to formal complaints received from individuals and their representatives and how to file a complaint within the facility.

(f) Contain provisions regarding transportation of individuals for shopping, recreation, rehabilitation, medical services. Such transportation service may be provided by the ARMHP as either a basic service or on a reimbursement basis; with transportation for emergency use available at all times.

(g) Contain provisions regarding the ARMHP's refund policy when an individual dies, is transferred or discharged.

(h) Contain a statement that an individual may not be required to perform services for the ARMHP.

(i) Contain the ARMHP policies and procedures for individuals receiving treatment.

(j) Contain disclosures of how and by what level of staff medications are handled in the ARMHP. The agreement must also specify who is responsible for initial acquisition and refilling of prescribed medications utilizing unit or multidose packaging for the individual. Either this responsibility will remain with the individual, representative or legal surrogate, if any, or be assigned to the ARMHP operating through the administrator.

(k) The ARMHP must provide each individual, representative, legal surrogate with an opportunity to read the complete agreement prior to the execution of the admissions agreement. In the event that an individual, representative or legal surrogate is unable to read the agreement, the administrator or a manager must take steps to assure communication of the contents of the admission agreement to be signed. Each individual, representative, or legal surrogate must be given an opportunity to ask questions prior to signing the admission agreement. The administrator or a manager must be present prior to execution to answer any questions regarding the admissions agreement.

(l) The ARMHP must provide the individual and representative or legal surrogate, if any, with a signed copy of the agreement. A copy signed by both parties (individual and

administrator or on-site manager) must be retained in the individual's file and maintained by the administrator of the ARMHP.

(m)The ARMHP must not use a written admission agreement or any other written agreement signed by the individual or the individual's legal representative which waives or attempts to waive any of the individual's rights these rules protect. Any such provision of an admission agreement purporting to waive these rules is void.

(3) Nursing Assessment and Physical Examination. All individuals shall be given a nursing assessment and physical examination as soon as possible but no more than 48 hours after admission to an ARMHP. The physical examination shall include a complete medical history and documentation of significant medical problems. It must contain specific descriptive terms and not the phrase, "within normal limits," or similar statement. If the individual received a physical examination at an inpatient psychiatric hospital or from a psychiatrist within 72 hours prior to admission to the ARMHP, no further physical examination will be necessary unless clinically indicated or if the physical examination does not meet the requirements of this section. General findings must be written in the individual's clinical record within 48 hours.

(4) Emotional and Behavioral Assessment. Upon admission to an ARMHP and on a monthly basis thereafter, an emotional and behavioral assessment shall be completed and entered into the individual's clinical record. The assessment shall be made by a mental health professional. If the individual received an assessment at a crisis stabilization unit or an inpatient acute care or psychiatric hospital prior to discharge to the ARMHP, another assessment is not required unless clinically indicated, the assessment does not meet the requirements of this section, or the assessment occurred more than 7 days prior to admission to the ARMHP. The assessment shall include the following:

(a) A history of previous emotional, behavioral, and substance abuse problems and treatment.

(b) An initial social assessment shall be completed upon an individual's admission which must include a determination of the need for participation of family members or significant others in the individual's treatment; the social, peer group, and environmental setting from which the individual comes; family circumstances; current living situation; employment history; social, ethnic, cultural factors; and childhood history. Additionally, a comprehensive assessment shall be conducted within thirty days of admission by a licensed or certified staff member and reviewed by the ARMHP's multidisciplinary team and signed by a licensed or certified supervisor.

(c) A direct psychiatric evaluation of each individual shall be completed by a physician or psychiatrist upon admission to include a mental status examination which

includes detailed behavioral descriptions, including symptoms (not summary conclusions), and concise evaluation of cognitive functioning. A diagnosis, made by the physician or psychiatrist in accordance with the current edition of the American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders shall be recorded in the individual's clinical record.

(d) Specifications of the behaviors that will be demonstrated in order for the individual to return to a less restrictive setting and recommended intervention strategies.

(e) When indicated, the assessment shall also include intellectual, projective, and personality testing, and other functional evaluations of language, self-care, and social-affective and visual-motor functioning.

(f) A determination of medical necessity for continued stay in the ARMHP and treatment goals and progression.

#### (5) Medical Care.

(a) The ARMHP shall adopt medical care policies and procedures regarding medical care applicable to all types of mental health professionals at the facility which have been approved by the medical director. The policies and procedures for medical care shall include the procedures that may be initiated by a registered nurse in order to alleviate a life-threatening situation. Medication or medical treatment shall be administered by a mental health professional with appropriate authorization and qualification, and orders for medications and treatments shall be written and signed by the physician or psychiatrist.

(b) There shall be no standing orders for any medication used primarily for the treatment of mental illness.

(c) All oral orders shall be received and recorded immediately only by a registered nurse with the physician's or psychiatrist's name and signed by the physician or psychiatrist within 24 hours. Such orders shall include a progress note that an order was made orally, the content of the order, justification, time, date and completion of medication reconciliation.

(d) Upon admission and as additional medication or treatment is prescribed or discontinued, the registered nurse, physician, psychiatrist, or other qualified staff member shall reconcile the individual's medication.

(6) Comprehensive Service and Implementation Plans. The ARMHP shall work with the individual to develop a service implementation plan which has objectives and action steps written for the individual in behavioral terms. The objectives shall be related directly to one or more goals in the individual's comprehensive service plan. The service implementation plan shall be initiated with documented input from the individual receiving services and signed by the responsible physician or psychiatrist or other

mental health professional privileged by policies and procedures within 48 hours of admission. The service implementation plan shall be fully developed within 5 days of admission and must contain short-term treatment objectives stated in behavioral terms, relative to the long-term view and goals in the comprehensive service plan, and a description of the type and frequency of services to be provided in relation to treatment objectives. The plan shall be reviewed with the individual and updated at least every 30 days. A copy of the plan shall be signed by and provided to the individual. A new aftercare plan shall be developed with and shared with the individual prior to discharge from the ARMHP.

(7) Previous Record. For individuals who enter the ARMHP following discharge from an inpatient psychiatric hospital, the previously completed intake interview, physical examination, medication log, progress notes, discharge or aftercare plan, and forms required for admission to the facility attended by the individual shall be made a part of the ARMHP clinical record.

(8) Required ARMHP Services.

(a) Services. Each ARMHP shall provide the following services on a 24-hour-a-day, 7-day-a-week basis:

1. Twenty-four hour per day supervision;
2. Individual, group, and family counseling services directed toward alleviating the symptomatic behavior which required admission to an ARMHP;
3. Medical or psychiatric treatment provided by a licensed physician or psychiatrist;
4. Social and recreational activities, inside and outside the context of the facility;
5. Referral arrangements with crisis stabilization units, other psychiatric treatment facilities, and hospital emergency services, which include but are not limited to, a written process and adequate staff to facilitate transfer of an individual to such facilities and referral to less restrictive, nonresidential treatment services, when appropriate, and
6. Provision of or access to transportation in order to accomplish emergent and non-emergent transfers and to meet the service needs of individuals served.

(b) Optional Services. An ARMHP may provide therapeutic modalities and complementary services beneficial to the treatment of and supports for adult mentally ill persons, as determined by the Medical Director. Notwithstanding the foregoing, such services may only be provided to an individual upon the express written consent of the individual or legal surrogate.

(c) Routine Activities. Basic routine activities for individuals admitted to an ARMHP shall be delineated in program policies and procedures which shall be available to all staff. The daily activities shall be planned to provide a consistent, well structured, yet flexible, framework for daily living and shall be periodically reviewed and revised as the needs of individuals or the group change. Basic daily routine shall be coordinated with special requirements of each service implementation plan. A schedule of daily activities shall be posted or otherwise available to all individuals receiving services.

(d) Laboratory Services.

1. Requirement. Every ARMHP shall provide or contract for certified laboratory services commensurate with the individual's needs.

(i) Emergency. Provision shall be made for the availability of emergency licensed laboratory services on a 24-hour-a-day, 7-day-a-week basis including holidays.

(ii) Orders. All laboratory tests and services shall be ordered by a mental health professional pursuant to authority granted by his or her scope of license.

(iii) Record. All laboratory reports shall be filed in the individual's clinical record.

(iv) Specimens. Each ARMHP shall have written policies and procedures governing the collection, preservation, and transportation of specimens to ensure adequate stability of specimens.

2. Contracts. Where the ARMHP depends on an outside laboratory for services, there shall be a written contract detailing the conditions, procedures, and availability of work performed. The contract shall be reviewed and approved by the ARMHP director or administrator.

(e) Discharge and Continuity of Care.

1. Discharge Preparation. Prior to discharge from the ARMHP, the staff shall work with the individual and, with the individual's written consent, shall work with the individual's support system including family, friends, employers, and case manager, as appropriate, to ensure that all efforts are made to prepare the individual for returning to a less restrictive setting.

2. Referral Services. All ARMHP facilities shall develop and maintain written referral agreements with licensed general or psychiatric hospitals. Such agreements shall ensure that referred individuals are admitted as soon as necessary.

3. Discharge Summary. The discharge summary shall include the initial formulation and diagnosis, clinical resume, final formulation, and final primary and secondary diagnoses, the psychiatric and physical categories. The final formulation shall reflect the general observations and understanding of the individual's condition initially, during appraisal of the fundamental needs of the individual. All relevant

discharge diagnoses should be recorded and coded in the standard nomenclature of the current "Diagnostic and Statistical Manual of Mental Disorders," published by the American Psychiatric Association, and the latest edition of the "International Classification of Diseases," regardless of the use of other additional classification systems. Records of discharged individuals shall be completed following discharge within a reasonable length of time, and not to exceed fifteen (15) days. In the event of death, a summation statement shall be added to the record either as a final progress note or as a separate statement. This final note shall take the form of a discharge summary and shall include circumstances leading to death. All discharge summaries must be signed by a physician who treated the individual.

Authority: O.C.G.A. §§ 37-3-204, 37-3-205, 31-2-4, 31-2-7, 31-2-8, 31-7-2.1

### **111-8-2-.09 Minimum Building and Functional Design Standards**

(1) Required Approvals.

(a) An ARMHP shall be in compliance with all applicable local health, sanitation, building, and zoning requirements.

(b) An ARMHP shall be in compliance with all applicable laws and rules issued by the state fire marshal, the proper local fire marshal or state inspector, and shall have a certificate of occupancy if required.

(2) The ARMHP shall make reasonable efforts to ensure that the building and equipment are designed, constructed, and utilized in the interests of the safety and health of individuals and staff members and in a manner that minimizes the risks of self-harm and injury. All buildings and grounds shall be constructed and maintained in a safe manner and in accordance with these rules.

(3) An ARMHP shall have appropriate and sufficient space to meet the programmatic needs of its clients and carry out the program's array of services. Such space shall include areas conducive to privacy for counseling and group activities, reception/waiting areas, and bathrooms which assure privacy for collection of urine specimens.

(4) Nurses' Station.

(a) The nurses' station shall be positioned so that the unit may be under constant direct visual surveillance. Charting and records areas shall be located in the rear of the nurses' station, and not in a separate area, so that staff on duty can readily observe the client areas.

(b) The maximum number of beds which may be served by a common nurses' station in colocated units is thirty (30).

(c) The nurses' station shall have necessary electronic assistance such as camera monitors, intercoms and remote access controls to monitor activity in more remote areas where individuals may become isolated. Areas warranting visual and auditory monitoring shall include remote entrance or egress doors, isolated hallways, after hours law enforcement entrance, emergency screening area, and fenced recreational yard.

(5) Medication Room. The medication room shall be located near the nurses' station. The medication room shall have a sink, refrigerator, locked storage, and facilities for dispensing medication. Security against unauthorized access must be ensured. The refrigerator shall store medications and clean materials only.

(6) Sleeping Areas.

(a) For programs initially licensed or expanded after the effective date of this rule, sleeping areas shall contain not less than 60 square feet of useable floor space per individual in multiple use bedroom and not less than 100 square feet of useable space in single bedrooms.

(b) Each individual shall be provided with his or her own personal space and furnishings for storage of clothes and personal belongings.

(c) Each individual shall be provided with his or her own personal bed and mattress. Clean sheets, pillows, and pillowcases, blankets or bed covering shall be provided and sheets and pillowcases shall be changed as needed, but at least weekly.

(d) Bedrooms shall be provided with outside ventilation by means of windows, air conditioners, or mechanical ventilation. All rooms that have windows that can be opened without special devices shall have insert window screens and the windows and screens must be in good repair.

(7) Lavatory and Bathing Facilities.

(a) For programs initially licensed or expanded after the effective date of this rule, there shall be at least one lavatory (water basin and toilet) with hot and cold water for every six residents or fraction thereof. Lavatories that contain more than one toilet shall contain stalls for individual privacy. All lavatories shall be properly ventilated.

(b) For programs initially licensed or expanded after the effective date of this rule, there shall be at least one shower or bathtub with hot and cold water for every ten

individuals or fraction thereof. Bathtubs and shower stalls shall be equipped with non-slip surfaces.

(8) Dining Area. There shall be a separate furnished dining area for serving meals that contains not less than ten square feet of useable floor space for each individual being served.

(9) Climate Control and Pest Control. A facility shall be maintained at a temperature range of sixty-five degrees Fahrenheit (72 degrees if serving pregnant women) to eighty-two degrees Fahrenheit, depending on the season of the year. An effective pest control system shall be implemented and documentation on file as to actions taken.

(10) Hot and cold running water under pressure shall be readily available in all washing, bathing, food preparation and food handling areas. Hot water in client areas shall be at least 100 degrees Fahrenheit, but not exceed 120 degrees Fahrenheit.

(11) Premises. All grounds, space, and facilities, both those within the facility and those regularly used by residents as an integral part of the ARMHP, shall be kept clean and free from hazards to health and safety and from litter. All required care/services furnished at the facility shall be provided on-site and in a manner which does not require residents to be transported from one site to another property, nor which impedes residents from ambulating from one site to another due to the presence of physical barriers.

(12) The ARMHP shall be designed to provide an outdoors space with a locked perimeter to include a fenced exercise area within which individuals can reside 24 hours a day in an environment that makes reasonable efforts to provide privacy for the individuals receiving services otherwise exposed to public view.

(13) Each ARMHP shall maintain laundry facilities which incorporate a flow-through design in which dirty laundry enters, is sorted, placed in the washer, dried, folded and moved out without crossing clean laundry with dirty laundry. The washing and drying units shall be equipped to sanitize clothes as a preventive measure of infection control.

(14) ARMHP furniture shall be durably constructed for heavy wear and use. Furnishings shall have finishes which are readily cleanable and shall have a flame-resistant rating.

Authority: O.C.G.A. §§ 37-3-204, 37-3-205, 31-2-4, 31-2-7, 31-2-8, 31-7-2.1

### **111-8-2-.10 Staff**

(1) Medical Director. Each ARMHP must have a medical director. The medical director must be a psychiatrist who is licensed to practice in this State and who is board

certified by the American Board of Psychiatry and Neurology. The medical director is responsible for providing or supervising all psychiatric care and treatment at the ARMHP and shall retain responsibility for the range and quality of services provided at the ARMHP.

(2) Administrator. Each ARMHP must have an administrator. The administrator is the manager designated by the Governing Body as responsible for the day-to-day management, administration and supervision of the ARMHP, who may also serve as the on-site manager and responsible staff person except during periods of his or her own absence.

(3) ARMHPs must designate a Food Service Manager. Such person shall be responsible for managing the preparation of meals and must enforce safe food handling practices which address basic food safety, hygiene, cross contamination, time and temperature requirements, and sanitation with staff and individuals.

(4) Minimum Required Staffing. At a minimum, each ARMHP shall have the following individuals on staff:

- (a) Psychiatrist, or other physician when the psychiatrist is unavailable.
  - (b) Registered professional nurse or advanced practice nurse practitioner.
  - (c) Clinical case management staff to facilitate care and safe discharge planning.
  - (d) Mental health technicians or similarly trained paraprofessionals or certified peer specialists.
- (5) Minimum Staffing Hours.

(a) The medical director must be physically present at the facility at least 3 days in a rolling 7 day period and for a cumulative total of no less than 15 hours over such period. In the event the medical director is unavailable, another psychiatrist must serve as a proxy; however, the medical director shall maintain professional responsibility for the provision of psychiatric care at the ARMHP.

(b) The administrator must be physically present at the facility during the hours of 9:00AM and 5:00PM Monday through Friday. In the event the administrator is unavailable, a person who is similarly qualified may carry out the duties of the administrator.

(c) An on-site manager must be physically present at the facility at all times the ARMHP is operational. The administrator may serve as an on-site manager.

(d) A physician or qualified mental health professional must be available for in-person patient consultation at all times the ARMHP is operational.

(e) Each ARMHP must maintain a ratio of not less than 1 to 12 individuals to registered professional nurse or advanced practice nurse practitioner at all times the ARMHP is operational.

(f) Each ARMHP must maintain a ratio of not less than 1 to 12 individuals to paraprofessional or certified peer specialists at all times the ARMHP is operational.

(6) Staff subject to professional practice acts must be in compliance with the Georgia practice acts applicable to each respective professional practice.

(7) All staff are required to comply with the Georgia codes of ethics which govern their respective practices.

(8) The medical responsibility for each client will be vested in a licensed physician who oversees all medical services provided by the program. Physician assistants or nurse practitioners may be utilized to the extent allowed by the Georgia practice acts applicable to each respective professional practice.

(9) Counseling services are provided by individuals qualified by education, training, and experience to provide substance abuse counseling and who are licensed/certified if required by Georgia practice acts applicable to each respective professional practice.

(10) Each program shall have available professional mental health consultation to review selected cases and to provide assistance to the staff in client management or for referral for psychiatric services.

(11) Staff Training and Orientation. Prior to working with clients, all staff who provide treatment and services 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 facility's written policies and procedures regarding its program purpose and description; client rights, responsibilities, and complaints; confidentiality; and other policies and procedures that are relevant to the staff member's range of duties and responsibilities, including the use of universal precautions for infection control, use of behavior management and emergency safety interventions, and information about HIV/AIDS;

2. The staff member's assigned duties and responsibilities; and
3. Reporting client progress and problems to supervisory personnel and procedures for handling medical emergencies or other incidents that affect the delivery of treatment or services.
4. Additional training shall be provided annually for each staff member who provides treatment services to clients. Such training shall be in subjects that relate to the staff member's assigned duties and responsibilities and include a minimum of thirty (30) clock hours.

Authority: O.C.G.A. §§ 37-3-204, 37-3-205, 31-2-4, 31-2-7, 31-2-8, 31-7-2.1

#### **111-8-2-11 Criminal Background Checks**

(1) The Rules and Regulations for Criminal Background Checks located at Ga. R. & Reg. 111-8-12-.01 et seq. are incorporated herein by reference and such Rules and Regulations are applicable to all governing body members, applicants, administrators, on-site managers, and other staff.

(2) A records check application shall be required for each governing body member and applicant upon application for a license or provisional license and upon a change of ownership.

(3) A records check application shall be required for each administrator, on-site manager, or other staff member upon application for employment or prior to placement in the position.

Authority: O.C.G.A. §§ 37-3-204, 37-3-205, 31-2-4, 31-2-7, 31-2-8, 31-7-2.1

#### **111-8-2-12 Medication Administration, Dispensement and Storage**

(1) Self-Administration of Medications. Subject to discretion of the Medical Director, Individuals who have the capacity to self-administer medications safely and independently without staff assistance or supervision must be allowed to store their own medications securely and self-administer medications if they so desire. Notwithstanding the foregoing, all controlled substances must be administered and stored by the facility.

(2) Facility's Administration of Medications. Where the individuals either are not capable of self-administration of medications, the ARMHP must provide medication administration services to the individuals in accordance with physicians' orders, the needs of the individuals and these rules. Such medications must be dispensed in accordance with Georgia law.

(3) Maintaining Records on Medication Assistance and Administration. Where the ARMHP administers medications to individuals, the ARMHP must maintain a daily Medication Assistance Record (MAR) for each individual receiving such service.

(a) The MAR must include the name of the specific individual, any known allergies, the name and telephone number of the individual's health care provider, the name, strength and specific directions including a summary of severe side effects and adverse reactions for use of each medication and a chart for staff who provide assistance or administration to record initials, time and date when medications are taken, refused or a medication error is identified (e.g. missed dosage).

(b) The staff providing the assistance or administration of medications must update the MAR each time the medication is offered or taken.

(c) The ARMHP must make medication information concerning the descriptions of medication, dosing, side effects, adverse reactions and contraindications for each medication being administered to the individuals immediately available for reference by staff providing medication assistance or administration.

(d) Staff providing assistance with or administration of medications must document in the individual's record any unusual reactions to the medications and provide such information to the individual, the individual's representative and the health care provider as appropriate.

(e) Refills of prescribed medications must be obtained timely so that there is no interruption in the routine dosing. Where the ARMHP is provided with a new medication for the individual, the MAR must be modified to reflect the addition of the new medication within 48 hours or sooner if the prescribing physician, advance practice registered nurse or physician assistant indicates that the medication change must be made immediately. In ARMHPs, where unit or multi-dose packaging is not available for immediate changes in medications, unit or multi-dose packaging of the medication must be obtained when the prescription is refilled.

(4) Orders Required for All Medications. An ARMHP must not allow its staff to administer medications, including over-the-counter medications, unless there is a physician, advance practice registered nurse or physician assistant's order or individualized prescription bottle, specifying clear instructions for its use on file for the individual.

(5) Timely Management of Medication Procurement. The ARMHP must obtain new prescriptions within 48 hours of receipt of notice of the prescription or sooner if the prescribing physician indicates that a medication change must be made immediately. If the pharmacy does not have the medication needed for the immediate change available

and has not obtained further directions from the physician, the ARMHP must notify the physician of the unavailability of the prescription and request direction.

(6) Storage of Medications.

(a) Storage of medications must be maintained in accordance with guidelines established by the United States Drug Enforcement Administration and the Georgia Board of Pharmacy.

(b) The ARMHP is responsible for having an effective system to manage the medications it receives including storing medications under lock and key, or other secure system to prevent unauthorized access, at all times, whether kept by an individual or kept by the ARMHP for the individual, except when required to be kept by an individual on his or her person due to need for frequent or emergency use, as determined by the individual's physician, advance practice registered nurse or physician assistant, or when closely attended by a staff member. Additionally, for controlled substances, the secure storage must be a locked cabinet or box of substantial construction and a log must be maintained and updated daily by the ARMHP to account for all inventory.

(c) Medication kept by an individual may be stored in the individual's bedroom, in a locked cabinet or other locked storage container. Single occupancy bedrooms which are kept locked at all times are acceptable. Duplicate keys for the individual's locked storage container and room must be available to the individual and the administrator, on-site manager or designated staff.

(d) Medications must be kept in original containers with original labels intact.

(e) An ARMHP may stock over-the-counter medications such as aspirin or acetaminophen for the convenience of individuals who have PRN (as needed) orders for the specific medication and dosage. However, where the individual takes an over-the-counter medication daily as prescribed in a written order by a licensed physician, nurse practitioner or physician assistant, such as vitamins or low-dose aspirins, the individual must have an individual bottle of the prescribed medication that is kept for the individual's usage.

(f) Unused or expired medications must be properly disposed of using the current U.S. Food and Drug Administration or U.S. Environmental Protection Agency guidelines for the specific medications.

Authority: O.C.G.A. §§ 37-3-204, 37-3-205, 31-2-4, 31-2-7, 31-2-8, 31-7-2.1

**111-8-2-.13 Food and Nutrition**

(1) An ARMHP shall provide each individual with meals and snacks of food groups and serving sizes which meet the nutritional guidelines of the United States Department of Agriculture. Meals and snacks shall be varied daily. Modified diets based on medical or religious reasons shall be served as needed.

(2) If required by the local county board of health, a residential program shall obtain a valid food service permit from the local county board of health. All ARMHPs providing food services shall meet the following requirements:

(a) Food shall be stored, prepared, and maintained in a safe and sanitary manner commensurate with generally accepted and recognized food service standards.

(b) There shall be designated and separate space for food preparation and storage.

(c) All perishable and potentially hazardous foods shall be refrigerated at a temperature of forty-five degrees Fahrenheit unless frozen. Freezer temperatures shall be maintained at zero degrees Fahrenheit or below.

(d) Food shall be in sound condition, free from spoilage and contamination and shall be safe for human consumption when served to residents.

(e) Food service equipment and preparation areas shall be kept clean and free of accumulation of dust, dirt, food particles, and grease deposits.

(f) When non-disposable dishes, glasses, and flatware are used, they shall be properly cleaned by pre-rinsing and scraping, washing, sanitizing, and drying.

(3) Where an ARMHP provides food services through contract or arranges for food services, the ARMHP shall require that food served be safe for human consumption and that the meals/snacks provided meet the nutritional guidelines of the United States Department of Agriculture.

Authority: O.C.G.A. §§ 37-3-204, 37-3-205, 31-2-4, 31-2-7, 31-2-8, 31-7-2.1

#### **111-8-2-.14 Disaster Preparedness Plan**

Each ARMHP shall have a Disaster Preparedness Plan which meets the requirements of the rules and regulations in Department Chapter 111-8-16-.01, et seq.

Authority: O.C.G.A. §§ 37-3-204, 37-3-205, 31-2-4, 31-2-7, 31-2-8, 31-7-2.1

#### **111-8-2-.15 Individual Rights and Grievances.**

(1) Admission to an ARMHP is voluntary. An individual, in the absence of a court order, may voluntarily discharge from the facility at any time.

(2) The facility must operate in a manner that respects the personal dignity of the individuals and the human rights of the individuals, which rights cannot be waived, except as provided in these rules by the individual or the individual's representative or legal surrogate. Accordingly, ARMHPs must adhere to the following principles:

(a) Each individual must receive care, and services which must be adequate, appropriate, and in compliance with applicable federal and state law and regulations in the least restrictive environment permissible.

(b) Each individual shall receive treatment without regard to race, sex, or age.

(c) Each individual shall have the right to receive treatment at a facility that is clean, safe, and promotes an atmosphere of recovery in support of the individual's treatment goals.

(d) The facility, its agents or employees, must not punish or harass the individual, because of the individual's efforts to enforce his or her rights.

(e) Each individual must have the right to:

1. Exercise the constitutional rights guaranteed to citizens of this state and this country including, but not limited to, the right to vote.

2. Choose activities and schedules consistent with the ARMHP's treatment services and the individual's interests and assessments.

(f) Each individual may take part in planning their own treatment at the ARMHP and know the benefits, risks, and/or side effects of all medications and treatments.

(g) Each individual must have the right to enjoy privacy in his or her room; facility personnel and others must respect this right by knocking on the door before entering the individual's room.

(h) Each individual has the right to receive and refuse to receive visitors.

(i) Each individual must have the right to associate and communicate freely and privately with persons and groups of the individual's choice without being censored by staff

(j) Each individual must be treated with dignity, kindness, consideration and respect and be given privacy in the provision of personal care. Each individual must be accorded privacy and freedom for the use of bathrooms at all hours, while accounting for individual safety.

(k) No religious or spiritual belief or practice may be imposed upon any individual. Individuals must be free to practice their religious beliefs as they choose. Each individual must have the right to participate in social, religious, and community activities that do not interfere with the rights of other individuals.

(l) Each individual has the right to be free from mental, verbal, sexual and physical abuse, neglect and exploitation.

(m) Each individual has the right to be free from actual or threatened physical or chemical restraints unless necessary for the protection of other individuals and staff. Each individual has the right to be free from isolation, corporal or unusual punishment and interference with the daily functions of living, such as eating or sleeping.

(n) Each individual has the right to use, keep and control his or her own personal property and possessions in the immediate living quarters, except to the extent a individual's use of his or her property would interfere with the safety or health of other individuals. Each individual has the right to reasonable safeguards for the protection and security of his or her personal property and possessions brought into the facility.

(o) Each individual has a right to send and receive mail and other communications with persons outside the facility. Each individual's mail must be delivered unopened to the individual on the day it is delivered to the facility. Each individual's outgoing correspondence may not be opened or tampered with prior to being mailed or otherwise delivered.

(p) Each individual must have access to a telephone and the right to have a private telephone, at the individual's own expense. Telephones must be placed in areas to insure privacy without denying accessibility.

(q) Each facility must permit immediate access to individuals by others who are visiting with the consent of the individual. Individuals have the right to have visitors at mutually agreed upon hours. Once the hours are agreed upon, no prior notice is necessary. Each individual has the right to refuse to see visitors or terminate any visit.

(r) Each individual has the right to manage his or her own financial affairs, including the right to keep and spend his or her own money unless that individual has been adjudicated incompetent by a court of competent jurisdiction or the individual has a legal surrogate handling financial affairs on their behalf. Each individual has the right to be free from coercion to assign or transfer to the facility money, valuables, benefits, property or anything of value other than payment for services rendered by the facility.

(s) Each individual has the right to receive or reject medical care, dental care, or other services except as required by law or regulations.

(t) Each individual has the right to choose and retain the services of a personal physician and any other health care professional or service. No facility is permitted to interfere with the individual's right to receive from the individual's attending physician complete and current information concerning the individual's diagnosis, treatment and prognosis. Each individual and his or her representative or legal surrogate, if any, has the right to be fully informed about care and of any changes in that care and the right of access to all information in medical records retained in the facility.

(u) Each individual has the right to fully participate in the planning of his or her care. Case discussion, consultation and examination shall be confidential and conducted discreetly. A person who is not directly involved in the individual's care may be present when care is being rendered only if he or she has the individual's permission.

(v) Each individual shall maintain or have access to their own money and personal effects, with reasonable limitations for safety.

(w) Each individual has the right to inspect his or her records on request. Each individual has the right to make a copy of all records pertaining to the individual. Each individual has the right to confidential treatment of personal information in the individual file.

(x) Each individual who has not been committed to the facility by court order or who does not have a representative or legal surrogate with specific written authority to admit, transfer or discharge, may discharge or transfer himself or herself upon notification to the facility in conformance with the facility's policies and procedures.

(y) Each individual has the right to file a complaint with the Department concerning care being provided in the facility that violates these rules. The facility must post the name of the Department and the address and telephone number where licensing complaints are received in the common area of the facility.

(z) The ARMHP shall establish a code of conduct and rights of individuals in compliance with facility rules and expectations which conforms with governing law and these Rules and Regulations. Such code of conduct shall set forth a clear and understandable review and disciplinary procedure for individuals alleged to have violated the code of conduct. The code of conduct shall include the right to appeal any decision to the administrator. The ARMHP code of conduct shall also advise individuals of the right to seek assistance from the Office of Disability Services Ombudsman and to report any complaints to the Department, alleging violations of these Rules and Regulations and laws governing the facility.

(3) Any individual receiving treatment from an ARMHP and each staff member may report to the Department any violations of the Rules and Regulations. The ARMHP may not limit services or discharge an individual on the sole basis that such individual filed a report with the Department.

(4) Nothing within these Rules and Regulations limits or diminishes the rights of individuals seeking to treatment to enforce their rights, remedies, claims, and defenses available to them at law and equity in a court of competent jurisdiction.

Authority: O.C.G.A. §§ 37-3-204, 37-3-205, 31-2-4, 31-2-7, 31-2-8, 31-7-2.1

### **111-8-2-16 Record Maintenance Requirements; Confidentiality of Records and Names of Individuals Seeking Treatment**

(1) ARMHPs must maintain all records of an individual seeking treatment at the facility for the required duration applicable to the types of records set forth in applicable law and regulation. In the absence of such laws and regulations, the ARMHP must maintain such records for a minimum of ten (10) years following the discharge of the individual from the facility.

(2) The records and name of any individual who seeks or obtains treatment, therapeutic advice, or counsel from any ARMHP shall be confidential and shall not be revealed except to the extent authorized in writing by the individual or the individual's guardian or custodian, to the extent required by applicable law, court order, and as necessary for the Department to conduct its regulatory oversight functions; furthermore, any communication by such individual to a staff member of an ARMHP shall be deemed confidential; provided, however, that, except for matters privileged under other laws of this state, the records of such individual and information about such individual shall be produced in response to a valid court order of any court of competent jurisdiction after a full and fair show-cause hearing and in response to a Departmental request for access for licensing purposes when such request is accompanied by a written statement that no record of patient identifying information will be made. The protections in this Rule and other provisions of state or federal law or regulation of an individual's identity or communications to the staff of any ARMHP shall not prohibit the use of de-identified data relating to such individuals for clinical or programmatic research or education or in presentations about the programs offered by a licensee under these Rules. Subject to and in compliance with the limitations of any state or federal privacy laws or regulations, the Department may require at reasonable intervals, and each licensee shall furnish, copies of summary records of each individual treated or advised pursuant to an ARMHP.

Authority: O.C.G.A. §§ 37-3-204, 37-3-205, 37-3-212, 31-2-4, 31-2-7, 31-2-8, 31-7-2.1

### **111-8-2-17 Incident Reports**

(1) The staff of the ARMHP must contact the local police department with jurisdiction over the facility to report any missing individual from the ARMHP within 30 minutes of the staff receiving actual knowledge that such person is missing from the ARMHP.

(2) The staff of the ARMHP must immediately contact the local police department with jurisdiction over the facility when it is determined that an individual poses a clear and present danger to any individual within the facility, its staff, and/or the general public.

(3) Whenever a serious incident (as designated herein) involving an individual occurs, the ARMHP must report in a format acceptable to the Department either within 24 hours after the incident has occurred, or the ARMHP has reasonable cause to believe that a reportable incident involving an individual has occurred. The serious incidents that must be reported to the Department include the following:

(a) any death of an individual seeking treatment at the facility;

(b) any serious injury to an individual that requires medical attention;

(c) any individual that is missing from the facility without notice of voluntary discharge;

(d) any rape, assault, any battery of an individual;

(e) an external disaster or other emergency situation that affects the continued safe operation of the residence; and

(f) when an owner, director or employee acquires a criminal record;

(g) when the ARMHP staff determines that an individual poses a clear and present danger to any individual within the facility, its staff, and/or the general public, and the law enforcement's involvement to the notification required by subsection (2) of this rule.

(4) The incident report required by these rules must be filed with the Department and must include at least:

(a) the name of the ARMHP and the name of the administrator;

(b) the date of the incident and the date the ARMHP became aware of the incident;

(c) the type of incident suspected, with a brief description of the incident; and

(d) any immediate corrective or preventative action taken by the ARMHP to ensure against the replication of the incident.

(5) Upon receipt of the incident report, the Department may initiate a complaint investigation of the incident. The complaint investigation report and the report of any rule violation compiled by the Department arising either from the initial report received from the ARMHP or an independent source is subject to disclosure in accordance with applicable laws.

Authority: O.C.G.A. §§ 37-3-204, 37-3-205, 31-2-4, 31-2-7, 31-2-8, 31-7-2.1

### **111-8-2-18 Enforcement of Licensing Requirements**

(1) An ARMHP that fails to comply with licensing requirements contained in these rules and the Rules and Regulations for General Licensing and Enforcement Requirements, Chapter 111-8-25, is subject to civil and administrative actions brought by the Department to enforce licensing requirements as provided by law and rules. Such actions will be initiated in compliance with the Georgia Administrative Procedures Act, O.C.G.A. § 50-13-1 et seq., O.C.G.A. § 31-2-8, and the Rules and Regulations for General Licensing and Enforcement Requirements, Chapter 111-8-25.

(2) The Department is authorized to fine an applicant or licensee, and/or deny, suspend, or revoke a license issued under these Rules for a violation of O.C.G.A. § 37-3-200 et seq. or a rule or regulation adopted under O.C.G.A. § 37-3-200 et seq. or to take other disciplinary actions against licensees as provided in Code Section 31-2-8 and the Rules and Regulations for General Licensing and Enforcement Requirements, Chapter 111-8-25.

(3) The denial, suspension, or revocation of a license by the Department shall be a contested case for purposes of Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.”

Authority: O.C.G.A. §§ 37-3-204, 37-3-205, 37-3-211, 31-2-4, 31-2-7, 31-2-8, 31-7-2.1

### **111-8-2-19 Inspections**

(1) The Department shall conduct periodic on-site inspection of each ARMHP. Such inspection shall include, but shall not be limited to, the premises, staff, individuals, and documents pertinent to the continued licensing of such ARMHP so that the Department may determine whether an ARMHP or governing body is operating in compliance with all applicable laws and regulations. Each licensee shall permit authorized Department representatives to enter upon and inspect any and all premises upon or in which a program is to be conducted, for which a license has been applied, or for which a license has been issued so that verification of compliance with all relevant laws or regulations can be made.

(2) If violations of these licensing rules are identified from an inspection, the ARMHP will be given a written report of the violation that identifies the rules violated. The ARMHP shall submit to the department a written plan of correction in response to the report of violation, which states what the facility will do, and when, to correct each of the violations identified. The ARMHP may offer an explanation or dispute the findings or violations in the written plan of correction, so long as an acceptable plan of correction is submitted within ten (10) days of the ARMHP 's receipt of the written report of inspection. If the initial plan of correction is unacceptable to the department, the ARMHP will be provided with at least one (1) opportunity to revise the unacceptable plan of correction. Failure to submit an acceptable plan of correction may result in the department commencing enforcement procedures. The ARMHP shall comply with its plan of correction.

Authority: O.C.G.A. §§ 37-3-204, 37-3-205, 37-3-213, 31-2-4, 31-2-7, 31-2-8, 31-7-2.1

### **111-8-2-.20 Unlicensed Adult Residential Mental Health Programs; Penalties**

(1) On and after January 1, 2024, a facility shall be deemed to be an “unlicensed ARMHP” if it does not have a valid ARMHP license and not exempt from licensure under these Rules and:

- (a) The facility is providing services and is operating as an ARMHP;
- (b) The facility is held out as or represented as providing services and operating as an ARMHP; or
- (c) The facility represents itself as a licensed ARMHP.

(2) Any facility alleged to be operating as an unlicensed ARMHP shall be assessed by the Department, after opportunity for hearing in accordance with the provisions of Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” a civil penalty in the amount of \$100.00 per bed per day for each day of violation. The Department shall send a notice by certified mail or statutory overnight delivery stating that licensure is required and the Department’s intent to impose a civil penalty. Such notice shall be deemed to be constructively received on the date of the first attempt to deliver such notice by the United States Postal Service. The Department shall take no action to collect such civil penalty until after opportunity for a hearing.

(3) In addition to other remedies available to the Department, the civil penalty authorized by subsection (2) of this Rule shall be doubled if the owner or operator continues to operate the unlicensed ARMHP, after receipt of notice pursuant to subsection (2) of this Rule.

(4) The owner or operator of an unlicensed ARMHP who is assessed a civil penalty in accordance with this Rule may have review of such civil penalty by appeal to the superior court in the county in which the action arose or to the Superior Court of Fulton County.

(5) Any person who owns or operates an ARMHP in violation of this Rule shall be guilty of a misdemeanor for a first violation, unless such violation is in conjunction with a violation of Article 8 of Chapter 5 of Title 16, in which case such person shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not less than one nor more than five years. Upon conviction for a second or subsequent such violation, such person shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not less than one nor more than ten years.

Authority: O.C.G.A. §§ 37-3-204, 37-3-205, 37-3-215, 31-2-4, 31-2-7, 31-2-8, 31-7-2.1

### **111-8-2-21 Role of Disability Services Ombudsman**

The powers of the disability services ombudsman established O.C.G.A. § 37-2-30, et seq. shall include oversight of individuals at an ARMHP licensed under these Rules, with all attendant powers and functions specified by law for such ombudsman.

Authority: O.C.G.A. §§ 37-3-204, 37-3-205, 37-3-215, 31-2-4, 31-2-7, 31-2-8, 31-7-2.1

### **111-8-2-22 Waivers and Variances**

(1) The department may, in its discretion, grant waivers and variances of specific rules upon application or petition being filed by a facility. The department may establish conditions which must be met by the facility in order to operate under the waiver or variance granted. Waivers and variances may be granted in accordance with the following considerations:

(a) Variance. A variance may be granted by the department upon a showing by the applicant or petitioner that the particular rule or regulation that is the subject of the variance request should not be applied as written because strict application of the rule would cause undue hardship. The applicant or petitioner must also show that adequate standards affording protection for the health, safety and care of the patients exist and will be met in lieu of the exact requirements of the rule or regulations in question.

(b) Waiver. The department may dispense entirely with the enforcement of a rule or regulation upon a showing by the applicant or petitioner that the purpose of the rule or regulation is met through equivalent standards affording equivalent protection for the health, safety and care of patients.

(c) Experimental Variance or Waiver. The department may grant waivers and variances to allow experimentation and demonstration of new and innovative approaches to delivery of services upon a showing by the applicant or petitioner that the

intended protections afforded by the rule or regulation which is the subject of the request are met and that the innovative approach has the potential to improve service delivery.

Authority: O.C.G.A. §§ 37-3-204, 37-3-205, 31-2-4, 31-2-7, 31-2-8, 31-7-2.1



## PUBLIC NOTICE OF PROPOSED RULE CHANGES

The Georgia Department of Community Health proposes new Rules and Regulations for Healthcare Facility Regulation, Adult Residential Mental Health Services Programs, Ga. Comp. Rules & Regs., r. 111-8-2-.01, et seq. This rule is being proposed pursuant to the authority granted the Department of Community Health in O.C.G.A. § 37-3-200, et seq.

These rules and regulations are a new subject within the Healthcare Facility Regulation chapter to establish minimum standards for Adult Residential Mental Health Services Programs. These rules and regulations are required by O.C.G.A. § 37-3-200, et seq. The rules and regulations establish minimum standards for facility governing body and administration; licensure requirements and enforcement processes and penalties; admission, discharge, care, and services; building and functional design standards; staffing requirements; criminal background checks; medication administration, storage, and dispensing; food and nutrition standards; disaster preparedness planning; establishing a procedure for enforcement of individual rights and grievances; recordkeeping maintenance requirements; procedures to protect confidentiality of individuals seeking treatment; departmental inspections; invoking the powers of the disability services ombudsman over facilities; and providing for the department's discretionary waiver and variance authority.

## NOTICE OF PUBLIC HEARING

An opportunity for public comment will be held on August 23, 2023, at 1:00 p.m. via Zoom. There will be no in-person attendance at the Department of Community Health. The Zoom meeting ID number is **830 5608 6465** and the event passcode is "**772544**". Follow these instructions to join the event:

1. Click the link or copy and paste the link text to a browser:  
<https://us02web.zoom.us/j/83056086465?pwd=RIVGeGo4ZU9Tc3NMYUJFakh5c1RWZz09>

2. Click "Join Now"

To join by telephone: One tap mobile

- +1 312 626 6799 US (Chicago)
- +1 646 558 8656 US (New York)

Meeting ID: 830 5608 6465

Oral comments will be limited to ten (10) minutes per person. Individuals who are disabled and require assistance to participate during this meeting should contact the Office of General Counsel at (404) 657-7195 at least three (3) business days prior to the meeting.



**GEORGIA DEPARTMENT  
OF COMMUNITY HEALTH**

Individuals wishing to comment in writing on any of the proposed changes must do so on or before August 30, 2023. DCH encourages written public comments submitted in accordance with O.C.G.A. § 50-13-4(a)(2) to be submitted via e-mail to the following e-mail address: **Public.Comment@dch.ga.gov**.

Written comments may be submitted via regular mail to the following address:

Attention: Alycia Allgood  
Office of General Counsel  
Georgia Department of Community Health  
2 Martin Luther King Jr, Drive SE, 18<sup>th</sup> Floor  
Atlanta, GA 30334

Comments from written and public testimony will be provided to the Board of Community Health. The Board will vote on the proposed changes on September 14, 2023.

**NOTICE IS HEREBY GIVEN THIS 13<sup>th</sup> DAY OF JULY 2023**

A handwritten signature in blue ink that reads "Caylee Noggle".

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**Caylee Noggle, Commissioner**