

**GEORGIA ASSOCIATION OF HOMES & SERVICES FOR THE AGING  
(GAHSA) COMMENTS TO THE STATE COMMISSION ON THE EFFICACY  
OF THE CERTIFICATE OF NEED PROGRAM**

Prepared for September 13, 2005 Commission Meeting  
Walter Coffey, President

The Georgia Association of Homes and Services for the Aging (GAHSA) is an association representing a diverse group of over 100 non-profit senior care providers (and quality-focused for-profit continuing care retirement communities) with distinct constituent groups: continuing care retirement communities, nursing homes, low-income senior and retirement housing, assisted living, hospital-based and community-based providers. Representing members for 32 years, GAHSA members serve over 124,000 older Georgians. Due to the very existence and nature of GAHSA's work, it is abundantly clear that GAHSA believes that seniors should have access to a full continuum of services in order to maximize independence and enhance quality of life. It is from this perspective that GAHSA offers the comments to the State Commission on the Efficacy of the Certificate of Need Program.

**Background:**

Georgia is a rapidly growing destination for retirees. Many parts of the state are aggressively marketing to the senior population with positive results. For example, Brooks, Lowndes, and Thomas Counties with the Triple Crown Hometown have made efforts to recruit seniors to South Georgia. With the recent hurricane seasons that have shown brutal outcomes in Florida more seniors are considering Georgia as a retirement destination. In addition, seniors are moving to the coast of Georgia, metro Atlanta, and the north Georgia mountains. This has produced greater interest in the development of Continuing Care Retirement Communities (CCRC) in our state.

Continuing care retirement communities (CCRCs) offer an innovative and independent lifestyle that is different from other housing and care options for older adults. Through long-term contracts that provide for housing, services and nursing care, usually all in one location, the CCRC continues to meet residents' needs in a familiar setting as they grow older.

Religious organizations, fraternal groups and other nonprofit agencies sponsor most CCRCs nationwide. These communities provide comprehensive residential and health care services. At the same time, they offer some distinct advantages including physical and financial security, independence and access to healthcare, companionship of friends and neighbors of similar age, access to community facilities, and privacy.

CCRCs are governed by state regulation in 33 states. Typically, as is the case in Georgia, CCRCs are classified as an insurance model and are governed by the state department of insurance or another similar entity. Each of the components making up a retirement community may also be subject to separate oversight: the housing units could be

regulated by the local government, the assisted living regulated by the state, and the nursing home part of the community governed by federal regulations.

The current Certificate of Need laws in Georgia have a limiting effect upon the development of CCRCs within the state. Other states have been progressive in encouraging the development of CCRCs which ultimately expands the economies in the locality in which they are located as well as throughout the entire state. If CON regulations were amended slightly to allow for a limited “open fill” of nursing facilities constructed as part of a CCRC (currently considered “sheltered beds”), CCRCs would be able to offer to their market the assurance of the nursing component being readily available and still protect the interest of stand alone nursing homes in the community.

Since CCRC regulations prohibit full service CCRC contracts from participating in the Medicaid program, amending the CON regulations to allow “outside” admissions or those residents not currently living on the campus of the CCRC would not in any way increase the Medicaid liability of the state nursing home expenses. The residents of such communities are covered through the population of the campus “self insuring” for future nursing home needs.

We feel that some needed changes to the Certificate of Need program that will enable it to more effectively dovetail into the Certificate of Authority Program for CCRCs administered by the Department of Insurance. GAHSA proposes the following changes in the CON regulations to support the growth of CCRC development and thus retiree relocation in and to the state of Georgia:

### **Changes needed to support the development of CCRCs in Georgia:**

#### Regarding CCRC Sheltered Nursing Facility Beds

We suggest the following revision to Rule 111-2-2-.33(4)(c):

(c) Sheltered nursing facility beds approved under these Rules shall be used exclusively for persons who are residents of the CCRC, and who are a party to a continuing care contract with the facility or the parent organization and who have lived in a non-nursing unit of the CCRC for a period of at least 90 days. The following exceptions shall be allowed: (1) one spouse, sibling or parent may be admitted directly to the nursing unit at the time the other spouse or sibling moves into a non-nursing unit, or (2) a person who is a party to the continuing care contract may be admitted directly into the nursing unit when the medical condition requiring nursing care was not known to exist or be imminent when the individual became a party to the continuing care contract, or (3) a person who is not a party to a continuing care contract may be admitted directly into the nursing unit during the first seven (7) years after the date of the initial nursing facility license. Further, the facility may continue to admit persons who are not parties to continuing care contracts after its first seven (7) years of operations for such periods as approved by the Department after the Department considers the

financial impact on the CCRC and the impact on the contractual rights of the residents of the CCRC.

The basis for our suggestion is that maintaining occupancy in the nursing facility is crucial to the success of a CCRC. Being able to admit nonresidents directly into the nursing facility will offset the large costs incurred in operating the nursing facility and, in turn, maintain lower monthly service fees paid by CCRC residents. Outside private pay residents (including Medicare residents) provide a source of revenue that contributes towards the significant costs of providing skilled nursing care to the existing residents of the CCRC.

In general, CCRCs in Georgia are experiencing minimal usage of nursing home beds in the first few years of operation. Further, based on our member's experience, residents of a new CCRC will not fully occupy the nursing facility beds until the CCRC is 7 to 9 years in operation. In addition, admitting nonresidents to the CCRC nursing facility also provides an additional health care choice to seniors. We are not proposing that the CCRC participate in the Medicaid program.

There are other states where we conduct business that have similar requirements for admission of nonresidents to the CCRC nursing facility for a certain number of years after licensure. These CON programs have been very successful in those areas.

#### Post-Approval Requirements for CCRC Personal Care Home/Nursing Facility Development

Rules 111-2-2-.02(6) and 111-2-2-.04(2)(b) state that projects involving construction must submit the following documentation to the Department within 12 months of the effective date of the Certificate of Need:

1. the construction plans have been approved by the Department's architect;
2. the construction contract has been signed, specifically indicating beginning and completion dates; and
3. The construction materials and equipment are on the site and construction of the project has actually begun.

We would like to propose that these sections be revised or an additional section be added that would establish separate post-approval requirements for a CCRC personal care home/nursing facility development project. We suggest extending the term for completion of the items listed in 1, 2 and 3 above to 36 months for CCRC projects. This 36-month period would also need to be reflected in Rule 111-2-2-.02(7) – Extension of Time Periods.

The language as written in Rules 111-2-2-.02(6) and 111-2-2-.04(2)(b) is more reflective of building a freestanding nursing facility. For the development of a CCRC project, certain pre-sales must be met before construction can begin. Pre-sale goals vary depending on long-term financing requirements and Certificate of Authority regulatory

requirements, but typically run around 60 to 70 percent of the CCRC residences being reserved in advance. Depending on the size of the project, it can take up to 2 to 3 years before construction can begin. Because the personal care home and/or nursing facility is developed in conjunction with a CCRC, a 12-month time-frame for the items listed in 1, 2 and 3 above is not feasible for a CCRC project.

### **Regarding Nursing Homes & Personal Care Homes**

As noted earlier, GAHSA believes strongly in the need for a continuum of services. Therefore, we believe that Georgia needs to closely examine the current residential options for older Georgians.

GAHSA members participate in the national Quality First program as well as the Georgia quality initiative. We were pleased to work with other groups including Georgia Health Care Association, Alzheimer's Association, AARP, Ombudsman and Georgia Medical Care Foundation on this project. Likewise, we are pleased with the results of these initiatives.

Currently, Georgia has two options for long-term care residential settings. For those who need continuous medical supervision, nursing facilities are the residential option. For those who do not need medical supervision, personal care homes are available. For those consumers who need some intermittent nursing services, but not 24-hour medical supervision, no appropriate residential option is available. Several years ago, the Health Strategies Council of the then Georgia Department of Medical Assistance recommended adding another level of care.

At least ten states license facilities based on differing categories of care. Legislation is pending in the Georgia General Assembly to create an additional licensing level in Georgia's long-term care continuum. (It should also be noted that legislation could be framed to allow, or to preclude Medicaid reimbursement of services provided in this prospective new level of long-term care.)

Regarding nursing home beds, GAHSA feels that the need to create additional general nursing home beds should be evaluated from the perspective of the above discussed continuum of care. In addition, we agree with the Georgia Health Care Association that the state should assist in the development of incentives to allow providers to replace older facilities and allow for the relocation of beds or facilities in order to better serve older Georgians.

We appreciate the opportunity to participate in this process and are available to provide additional information if it is needed. Below, please notice a list of GAHSA member CCRCs and communities that provide all levels of care.

### GAHSA CCRC Members

- Brandon Wilde – Augusta
- Canterbury Court – Atlanta
- Carlyle Place – Macon
- Lanier Village Estates – Gainesville
- Lenbrook in Buckhead – Atlanta
- Marshes Edge on St. Simons Island (Under Construction)
- Marshes of Skidaway Island – Savannah (Under Construction)
- Park Springs - Stone Mountain
- Peachtree Hills Place, Atlanta (Under Development)
- Presbyterian Village – Austell
- Spring Harbor – Columbus (Under Construction)
- St. George Village – Roswell
- Talmage Terrace Retirement Community - Athens
- Wesley Woods of Newnan-Peachtree City

### GAHSA Multi-Level Communities

- Christian City – Union City
- The Presbyterian Home – Quitman
- Wesley Woods Center of Emory Healthcare – Decatur
- The Weinberg Campus – Atlanta