

Rule 111-8-63-.01 Authority

The legal authority for this Chapter is found in O.C.G.A. §§ 31-2-7 and Chapter 7 of Title 31.

Rule 111-8-63-.02 Purpose

The purpose of these rules and regulations is to establish the minimum standards for the operation of personal care homes to be licensed as assisted living communities. Such communities provide assisted living care to adults who require varying degrees of assistance with the activities of daily living but who do not require continuous medical or nursing care.

Rule 111-8-63-.03 Definitions

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

- (a) "Abuse" means any intentional or grossly negligent act or series of acts or intentional or grossly negligent omission to act which causes injury to a resident, including but not limited to, assault or battery, failure to provide treatment or care, or sexual harassment of the resident.
- (b) "Activities of daily living" means bathing, shaving, brushing teeth, combing hair, toileting, dressing, eating, walking, transferring from place to place, laundering, cleaning room, managing money, writing letters, shopping, using public transportation, making telephone calls, grooming, obtaining appointments, engaging in leisure and recreational activities, or other similar activities.
- (c) "Administrator" means the manager designated by the Governing Body as responsible for the day-to-day management, administration and supervision of the assisted living community, who may also serve as the on-site manager and responsible staff person except during periods of his or her own absence.
- (d) "Applicant" means an individual or entity that submits an application for licensure pursuant to these rules as described below:
 - 1. When the assisted living community is owned by a sole proprietorship, the individual proprietor must be the applicant for the license, complete the statement of responsibility and serve as the licensee;
 - 2. When the assisted living community is owned by a partnership, the general partners must be the applicant for the license, complete the statement of responsibility and serve as the licensee;
 - 3. When the assisted living community is owned by an association, limited liability company (LLC) the governing body of the association or LLC must authorize the application for the license, complete the statement of responsibility and serve as the licensee; and
 - 4. When the assisted living community is owned by a corporation, the governing body of the corporation must authorize the application for the license, complete the statement of responsibility and serve as the licensee.

- (e) "Assistive device" means a device that may restrain movement which has been determined to be required by a licensed physician, nurse practitioner or physician's assistant working under a protocol or job description respectively and is applied for protection from injury or to support or correct the body alignment of the person, for the treatment of a person's physical condition, and may only be used as a treatment intervention where a specific written plan of care has been developed and the resident consents to such use.
- (f) "Assisted living care" means the specialized care and services provided by an assisted living community which includes the provision of personal services, the administration of medications by a certified medication aide, the provision of assisted self-preservation, and the provision of limited nursing services.
- (g) "Assisted living community" or "community" means a personal care home serving 25 residents or more that is licensed by the department to provide assisted living care.
- (h) "Assisted self-preservation" means the capacity of a resident to be evacuated from an assisted living community to a designated point of safety and within an established period of time as determined by the Office of Fire Safety Commissioner. Assisted self-preservation is a function of all of the following:
 - 1. the condition of the individual,
 - 2. the assistance that is available to be provided to the individual by the staff of the assisted living community; and
 - 3. the construction of the building in which the assisted living community is housed, including whether such building meets the state fire safety requirements applicable to an existing health care occupancy.
- (i) "Certificate" means a certificate issued by the department to operate a memory care center in a licensed assisted living community or personal care home.
- (j) "Chemical Restraint" means a psychopharmacologic drug that is used for discipline or convenience and not required to treat medical symptoms.
- (k) "Department" means the Department of Community Health of the State of Georgia operating through the Division of Healthcare Facility Regulation.
- (l) "Direct care staff person" means any employee, facility volunteer, or contract staff who provides to residents:
 - (i) any personal services, including but not limited to, medication administration or assistance, assistance with ambulation and transfer, and essential activities of daily living such as eating, bathing, grooming, dressing, and toileting; or
 - (ii) any other limited nursing services.
- (m) "Director" means the chief administrator, executive officer or manager.
- (n) "Disabled individual" means an individual that has a physical or mental impairment that substantially limits one or more major life activities and who meets the criteria for a disability under

state or federal law.

- (o) "Employee" means any person, other than a director, utilized by an assisted living community to provide personal services to any resident on behalf of the assisted living community or to perform at any facilities of the assisted living community any duties which involve personal contact between that person and any paying resident of the assisted living community.
- (p) "Exploitation" means an unjust or improper use of another person or the person's property through undue influence, coercion, harassment, duress, deception, false representation, false pretense, or other similar means for one's own personal advantage.
- (q) "Governing Body" means the owner, the board of trustees or directors, the partnership, the corporation, the association, the sole proprietorship or the person or group of persons who maintains and controls the assisted living community and who is legally responsible for the operation of the community.
- (r) "Health maintenance activities" means those limited activities that, but for a disability, a person could reasonably be expected to do for himself or herself. Such activities are typically taught by a registered professional nurse, but may be taught by an attending physician, advanced practice registered nurse, physician assistant, or directly to a patient and are part of ongoing care. Health maintenance activities are those activities that do not include complex care such as administration of intravenous medications, central line maintenance, and complex wound care; do not require complex observations or critical decisions; can be safely performed and have reasonably precise, unchanging directions; and have outcomes or results that are reasonably predictable. Health maintenance activities conducted pursuant to this paragraph shall not be considered the practice of nursing.
- (s) "Health services" means the specialized assistance that may be provided by or at the direction of either licensed healthcare professionals, such as doctors, nurses, physical therapists or through licensed healthcare programs, such as home health agencies, hospices and private home care providers to address health needs that the assisted living community is not staffed to provide or is not authorized by law or regulations to provide.
- (t) "Injury" as used in the definition of "abuse" means a wrong or harm caused by an individual to a resident which is manifested by a physical or behavioral reaction or change in the appearance or actions of the resident, such as, but not limited to, reddened or bruised skin not related to routine care, crying, startling or cowering reaction by the resident and malnutrition or pressure ulcers for which the facility has not provided proper care.
- (u) "Legal Surrogate" means a duly appointed person who is authorized to act, within the scope of the authority granted under the legal surrogate's appointment, on behalf of a resident who is adjudicated incapacitated.
- (v) "Limited nursing services" means the assessment of the physical, mental, and emotional status to determine the appropriate level of care for an individual; the performance of health maintenance activities, as defined in division (a)(9)(C)(ii) of Code Section 43-26-12; and the provision of any nursing care within the direct care staff person's scope of practice that can be completed within seven days or intermittently.
- (w) "Medical services" means services which may be provided by a person licensed pursuant to Article

II of Chapter 34 of Title 43 of the Official Code of Georgia Annotated.

- (x) "Memory care services" means the additional watchful oversight systems and devices that are required for residents who have cognitive deficits which may impact memory, language, thinking, reasoning, or impulse control, and which place the residents at risk of eloping, i.e. engaging in unsafe wandering activities outside the assisted living community.
- (y) "Memory care center" means the freestanding or incorporated specialized unit within a personal care home or assisted living community that either:
 - (i) holds itself out as providing additional or specialized care to persons with diagnoses of probable Alzheimer's or other dementias or with cognitive deficits that may place the resident at risk; or
 - (ii) charges higher rates for care for residents with Alzheimer's or other dementias than for care to other residents.
- (z) "Non-Family Adult" means a resident 18 years of age or older who is not related by blood within the third degree of consanguinity or by marriage to the person responsible for the management of the assisted living community or to a member of the governing body.
- (aa) "Nursing services" means those services which may be rendered by a person licensed pursuant to Articles I and 2 of Chapter 26 of Title 43 of the Official Code of Georgia Annotated.
- (bb) "On-site manager" means the administrator or person designated by the administrator as responsible for carrying out the day-to-day management, supervision, and operation of the assisted living community, who may also serve as responsible staff person except during periods of his or her own absence.
- (cc) "Owner" means any individual or any person affiliated with a corporation, partnership, or association with 10 percent or greater ownership interest in the business or agency licensed as an assisted living community and who:
 - 1. purports to or exercises authority of an owner in the business or agency;
 - 2. applies to operate or operates the business or agency;
 - 3. maintains an office on the premises of the assisted living community;
 - 4. resides at the assisted living community;
 - 5. has direct access to persons receiving care at the assisted living community;
 - 6. provides direct personal supervision of assisted living community personnel by being immediately available to provide assistance and direction during the time such assisted living community services are being provided; or
 - 7. enters into a contract to acquire ownership of such a business or agency.
- (dd) "Permit" or "license" means the authorization granted by the Department to the governing body to operate an assisted living community.
- (ee) "Personal care home" means any dwelling, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food

service, and one or more personal services for two or more adults who are not related to the owner or administrator by blood or marriage.

- (ff) "Personal Services" includes, but is not limited to, individual assistance with or supervision of self-administered medication, assistance, essential activities of daily living such as eating, bathing, grooming, dressing, toileting, ambulation and transfer.
- (gg) "Physical Restraints" are any manual or physical device, material, or equipment attached or adjacent to the resident's body that the individual cannot remove easily which restricts freedom or normal access to one's body. Physical restraints include, but are not limited to, leg restraints, arm restraints, hand mitts, soft ties or vests, and wheelchair safety bars. Also included as restraints are assisted living community practices which function as a restraint, such as tucking in a sheet so tightly that a bedbound resident cannot move, bedrails, or chairs that prevent rising, or placing a wheelchair-bound resident so close to a wall that the wall prevents the resident from rising. Wrist bands or devices on clothing that trigger electronic alarms to warn staff that a resident is leaving a room do not, in and of themselves, restrict freedom of movement and should not be considered as restraints.
- (hh) "Physician" means an individual who is currently licensed to practice medicine in the State of Georgia. For purposes of these rules, it shall be acceptable for any activities required to be performed by a physician to be performed by any other licensed medical professional (i.e., Nurse Practitioner, Physician Assistant, etc.) who is permitted to perform such activities under applicable state scope of practice rules and regulations.
- (ii) "Plan of Correction" means the written plan prepared in response to cited rule violations that identifies by date certain the specific actions that will be taken by the assisted living community to come into compliance with these rules.
- (jj) "Proxy caregiver" means an unlicensed person or a licensed health care facility that has been selected by a disabled individual or a person legally authorized to act on behalf of such individual to serve as such individual's proxy caregiver and meets the requirements contained in the Rules and Regulations for Proxy Caregivers Used in Licensed Healthcare Facilities, Chapter 111-8-100.
- (kk) "Representative" means a person who voluntarily, with the resident's written authorization, acts upon resident's direction with regard to matters concerning the health and welfare of the resident, including being able to access personal and medical records contained in the resident's file and receive information and notices pertaining to the resident's overall care and condition. This written authorization may take the form of an advance directive.
- (ll) "Resident" means any non-family adult who receives or requires assisted living care and resides in the assisted living community.
- (mm) "Responsible Staff Person" means the employee designated by the administrator or on-site manager as responsible for supervising the operation of the assisted living community during periods of temporary absence of the administrator or on-site manager.
- (nn) "Self-administration of medications" or "self-administered medications" means those prescription or over-the-counter drugs that the resident personally chooses to ingest or apply where the resident has been assessed and determined to have the cognitive skills necessary to articulate the need for the medication and generally knows the times, and physical characteristics of

medications to be taken.

- (oo) "Self-preservation" means the ability to respond to an emergency condition, whether caused by fire or otherwise, and escape the emergency without physical, hands-on assistance from staff. The resident may move from place to place by walking, either unaided or aided by prosthesis, brace, cane, crutches, walker or hand rails, or by propelling a wheelchair.
- (pp) "Staff" means any person who performs duties in the assisted living community on behalf of the assisted living community.

Rule 111-8-63-.04 Exemptions

These regulations do not apply to the following facilities:

- (a) boarding homes or rooming houses which provide no services other than lodging and meals;
- (b) facilities offering temporary emergency shelter, such as those for the homeless and victims of family violence;
- (c) other facilities, homes or residences licensed by the department which have not been classified as assisted living communities, e.g. community living arrangements, personal care homes, hospices, traumatic brain injury facilities;
- (d) facilities providing residential services for federal, state or local correctional institutions under the jurisdiction of the criminal justice system;
- (e) charitable organizations providing shelter and other services without charging any fee to the resident or billing any fee on behalf of the residents;
- (f) group residences organized by or for persons who choose to live independently or who manage their own care and share the cost of services including but not limited to attendant care, transportation, rent, utilities and food preparation;
- (g) facilities licensed by the Department of Behavioral Health, Developmental Disabilities and Addictive Diseases; or
- (h) host homes as defined in O.C.G.A. § 37-1-20(18).

Rule 111-8-63-.05 Application for Permit

- (1) The governing body of each assisted living community must submit to the Department an application for a permit in order to operate.
- (2) The application for a permit must be made on forms made available by the Department or in a format acceptable to the Department.
- (3) 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, Chapter 111-8-25.
- (4) Each application for a permit must be accompanied by an accurate floor plan showing windows,

doors, common areas, and resident room measurements and digital copies in .jpg format of pictures of the assisted living community's exterior, common areas and typical resident room.

- (5) The name of the administrator or on-site manager, who will be working in the assisted living community, if known, 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 of the assisted living community must be fully disclosed in the application for a permit. In the case of corporations, partnerships, and other entities recognized by statute, the corporate officers and all other individuals or family groups owning ten percent or more of the corporate stock or ownership must be disclosed in the application, as well as the registered agent for service of process.
- (7) Each application must include documentation of ownership or lease agreement for the property on which the assisted living community 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 community as of a specified date.
- (9) Local zoning and other local requirements regarding the proper location and establishment of the assisted living community must be addressed by the applicant with the responsible local officials.
- (10) The initial application for licensure shall include a financial stability affidavit from a certified public accountant affirming the applicant's ability to operate as a going concern for the next two years.

Rule 111-8-63-.06 Permits

- (1) The governing body of each assisted living community must obtain a valid permit from the Department to provide assisted living care prior to admitting any residents.
- (2) The permit must be displayed on the premises in a conspicuous place that is visible to residents and visitors.
- (3) Permits are not transferable from one assisted living community or location to another.
- (4) A permit must be returned to the Department and is no longer valid when any of the following events occurs:
 - (a) The assisted living community is moved to another location which has not been licensed.
 - (b) The ownership of the community changes.
 - (c) The permit is suspended or revoked.
- (5) A separate permit is required for each assisted living community located on different premises.
- (6) An assisted living community must not serve more residents than its approved licensed capacity, which is listed on the face of the permit issued by the Department.
- (7) An assisted living community must provide assisted living care as authorized by law and these rules.

- (8) An assisted living community must disclose its licensure classification as an assisted living community in its marketing materials.
- (9) An assisted living community must not operate or allow another business to operate on the premises of the assisted living community where the business intrudes on the residents' quiet enjoyment and exclusive use of the premises, in any way.

Rule 111-8-63-.07 Owner Governance

- (1) The assisted living community must have a functioning governing body which is responsible for providing the oversight necessary to ensure that the community operates in compliance with these rules, the Rules for General Licensing and Enforcement, Chapter 111-8-25, the Rules for Proxy Caregivers, Chapter 111-8-100, as applicable and other applicable state laws and regulations.
- (2) The governing body is responsible for implementing policies, procedures and practices in the community that support the core values of dignity, respect, choice, independence and privacy of the residents in a safe environment and in accordance with these rules. At a minimum, the policies and procedures that are developed must provide direction for the staff and residents on the following:
 - (a) the services available in the assisted living community, including, personal services, assisted living care, memory care services and any other specialized services such as memory care centers and designated proxy caregivers;
 - (b) the staffing plan that the community utilizes to ensure that staffing ratios increase proportionally as the number of residents who require assisted self-preservation increases;
 - (c) admissions, discharges and immediate transfers which ensure that the community does not admit or retain residents who need more care than the assisted living community is authorized or capable of providing;
 - (d) refunds when a resident is transferred or discharged;
 - (e) training and ongoing evaluation of staff, including specialized training if designated proxy caregivers are provided or memory care is offered;
 - (f) house rules and their enforcement;
 - (g) protecting the rights of the residents as set forth in these rules;
 - (h) medication management, procurement, the use of certified medication aides and professional oversight provided for such services;
 - (i) health and hygiene issues for residents and staff relating to infection control, work policies and return to work policies, food borne illnesses and reportable diseases;
 - (j) the investigation and reporting of abuse, neglect, exploitation of residents, residents' wandering away from the community, accidents, injuries and changes in residents' conditions to required parties;
 - (k) discipline procedures for handling acts committed by staff which are inconsistent with the policies of the assisted living community;

- (l) emergency preparedness, drills and evacuation requirements;
 - (m) quality assurance review mechanisms, including resident and family feedback to determine opportunities for improving care;
 - (n) the use of volunteers and their orientation regarding resident's rights and basic safety precautions;
 - (o) the specific use of proxy caregivers allowed within the community and the oversight of proxy caregivers the community requires or provides in accordance with Georgia law, these rules and the rules for proxy caregivers, Chapter 111-8-100; and
 - (p) the safety and security precautions that will be employed by the assisted living community to protect residents from harm by other residents, designated proxy caregivers, and other individuals, not employed by the community who routinely come into the community.
- (3) The governing body must designate an administrator or on-site manager as responsible for the overall management of the assisted living community and for carrying out the rules and policies adopted by the governing body.
- (4) The governing body must ensure that the Department has current emergency contact information consisting of name, e-mail contact for notifications to the licensed community, physical addresses, and phone numbers for the governing body and the administrator or on-site manager of the assisted living community.
- (5) The governing body must take appropriate measures within its control, to protect the residents from criminal activity occurring in the assisted living community.
- (6) The governing body must not allow persons who are not residents of the assisted living community to live on the premises if they are listed on the National Sex Offender Registry.
- (7) No member of the governing body, administration, or staff of the assisted living community or an affiliated assisted living community or family members of the governing body or any staff may serve as the legal surrogate or representative of a resident.
- (8) Where the governing body, a member of the governing body's family or a staff member of the assisted living community or an affiliated assisted living community serves as the representative payee of a resident, the individual or entity must be covered by a surety bond.
- (9) **Notification of Bankruptcy, Eviction or Change of Ownership.** The community must provide:
- (a) a minimum of sixty (60) days written notice to the department and all residents of any impending bankruptcy or property eviction that may force discharge or relocation of residents or otherwise adversely impact the provision of safe care and oversight; and
 - (b) a minimum of thirty (30) days written notice to the department and all residents of any impending change of ownership. The notice to the department shall be in the form of an application which must be approved before the permit is issued to the new owner(s).

Rule 111-8-63-.08 Community Leadership

- (1) Each community must have a full-time administrator to provide day-to-day leadership to the community. The administrator must be 21 years of age or older and hold a valid license from the State Board of Long-Term Care Facility Administrators with an effective date no greater than sixty (60) days from the date of hire or July 1, 2021, whichever is later.
- (2) The administrator is responsible for ensuring that the policies and procedures are effective and enforced to ensure compliance with these rules and community policies and procedures.
- (3) Each assisted living community must have a separate administrator or on-site manager who works under the supervision of the administrator.
- (4) The administrator or on-site manager must designate qualified staff as responsible staff to act on his or her behalf and to carry out his or her duties in the absence of the administrator or on-site manager.
- (5) Residents must not be allowed to function or be counted as staff.
- (6) Staff must be assigned duties consistent with their positions, training, experiences, and the requirements of Rule 111-8-63-.09.
- (7) The administrator is responsible for ensuring that the assisted living community has an effective quality assurance program which includes at least the following:
 - (a) investigating resident incidents which result in injuries or death in order to identify and implement opportunities for improvement in care;
 - (b) implementing changes made to support improved care, such as those necessary to minimize illness outbreaks and eliminate identified rule violations;
 - (c) monitoring staff performance to ensure that care and services are being delivered safely and in accordance with these rules and community policies; and
 - (d) obtaining and using feedback from the residents and representatives, at least annually, on the quality of services provided by the community and opportunities for improvement of services.

Rule 111-8-63-.09 Workforce Qualifications, Training and Staffing

- (1) **The on-site manager and responsible staff persons must be at least 21 years of age and responsible for supervising the provision of care by all other staff.** No staff person under the age of 18 is permitted to work in the assisted living community unless there is direct line-of-sight supervision being provided by the administrator, on-site manager or a responsible staff person or the staff member is at least 17 years of age and has successfully completed a vocational technical training track as a nursing assistant through a Georgia high school.
- (2) **Initial Training for All Staff.** The administrator or on-site manager must ensure that any person working in the assisted living community as staff, receives training within the first 60 days of employment on the following:
 - (a) residents' rights and identification of conduct constituting abuse, neglect or exploitation of a resident and reporting requirements to include the employee's receipt of a copy of the Long-Term Care Facility Resident Abuse Reporting Act as outlined in O.C.G.A. § 31-8-81*et seq.*;

- (b) general infection control principles including importance of hand hygiene in all settings and attendance policies when ill;
 - (c) training necessary to carry out assigned job duties; and
 - (d) emergency preparedness.
- (3) **Initial Training for Staff Providing Hands-On Personal Services.** In addition to the initial training required of all staff in paragraph (2) above, the administrator must ensure that staff hired to provide hands-on personal services to residents receive training within the first 60 days of employment which includes the following:
- (a) current certification in emergency first aid except where the staff person is a currently licensed health care professional;
 - (b) current certification in cardiopulmonary resuscitation where the training course required return demonstration of competency;
 - (c) medical and social needs and characteristics of the resident population, including special needs of residents with dementia;
 - (d) residents' rights and the provision of care to residents that is individualized and helpful; and
 - (e) training specific to assigned job duties, such as, but not limited to, permissible assistance with medications, contraindications for medications that must be brought to the attention of appropriate individuals, assisting residents in transferring, ambulation, proper food preparation, proper performance of health maintenance activities if serving as a designated proxy caregiver and responding appropriately to dementia-related behaviors.
- (4) **Trained Staff Present.** At least two staff who have completed the minimum training requirements of Rule 111-8-63-.09(2)(a) through (d) and (3)(a) through (e) above must be present in the assisted living community at all times any residents are present, with at least one staff person on each occupied floor, to provide necessary oversight and assistance to staff providing hands-on personal services who have not completed the training, to ensure that care and services are delivered safely and in accordance with these rules.
- (5) **Training Hours Required During First Year of Employment.** All staff offering hands-on personal services to the residents, including the administrator or on-site manager, must satisfactorily complete a total of at least twenty-four (24) hours of continuing education within the first year of employment as a direct care worker. The courses offered must be relevant to assigned job duties and include such topics as cardiopulmonary resuscitation and first aid certifications, utilizing standard precautions in working with aging residents, working with residents with Alzheimer's or other cognitive impairments, working with persons who have developmental disabilities or persons who have mental illness, providing social and recreational activities, understanding legal issues, performing necessary physical maintenance, fire safety, housekeeping activities, recognizing and reporting abuse, neglect and exploitation, preparing and serving food safely, preserving the dignity and rights of residents receiving care to make meaningful choices, providing and documenting medication assistance, or other topics as determined necessary by the Department to support compliance.

- (6) **Ongoing Staff Training.** Beginning with the second year of employment, staff providing hands-on personal services must have a minimum of sixteen (16) hours of job-related continuing education as referenced in paragraph 111-8-63-.09(5) above annually.
- (7) **Training Records.** The community must maintain documentation reflecting course content, instructor qualifications, agenda and attendance rosters for all trainings provided.
- (8) **Proxy Caregiver Training.** An assisted living community employing proxy caregivers must provide training to the proxy caregivers in accordance with the Rules and Regulations for Use of Proxy Caregivers, Chapter 111-8-100 subject to the limitation that only certified medication aides may administer medications on behalf of the community.
- (9) **Hospice Training.** The assisted living community shall ensure that any medication aide(s) who will be administering liquid morphine to any hospice patient(s) residing in the community receive adequate training from a licensed hospice on the safe and proper administration of liquid morphine prior to such administration and on an annual basis thereafter. The community shall maintain documentation of all training provided.
- (10) **Staff Health Examinations and Screenings.** The administrator, on-site manager, and each employee must have received a tuberculosis screening and a physical examination by a licensed physician, nurse practitioner or physician's assistant within twelve months prior to providing care to the residents. The physical examination must be sufficiently comprehensive to assure that the employee is physically qualified to work and free of diseases communicable within the scope of employment. Follow-up examinations must be conducted by a licensed physician, nurse practitioner or physician's assistant for each administrator or staff person to determine readiness to return to work following a significant illness or injury. Health information, screenings, assessments and medical releases regarding each staff member must be retained in a readily retrievable format by the assisted living community and made available for review and/or copying by Department representatives upon request.
- (11) **Criminal History Background Checks for Owners Required.** The owner of the business or agency applying for the license must comply with the requirements of the Rules and Regulations for Criminal Background Checks, Chapter 111-8-12.
- (12) **Criminal History Background Checks for Director, Administrator and Onsite Manager Required.** Prior to serving as a director, administrator or onsite manager of an assisted living community, the community must obtain a satisfactory fingerprint records check determination for the person to be hired in compliance with the Rules and Regulations for Criminal Background Checks, Chapter 111-8-12.
- (13) **Criminal History Background Checks for Direct Access Employees Required.** Prior to serving as a direct access employee, the community must obtain a satisfactory fingerprint records check determination for the person to be hired in compliance with the Rules and Regulations for Criminal Background Checks, Chapter 111-8-12.
- (14) The administrator or on-site manager must obtain an employment history for each employee and maintain documentation in the employee's file. If the potential employee has no prior employment history, then the assisted living community must retain documentation of a satisfactory personal reference check.

- (15) Personnel files must be maintained in the assisted living community for each employee and for three years following the employee's departure or discharge. These files must be available for inspection by departmental staff but must be maintained to protect the confidentiality of the information contained in them from improper disclosure. The files must include the following:
- (a) evidence of a satisfactory fingerprint record check determination, if applicable;
 - (b) report of physical examination completed by a licensed physician, nurse practitioner or physician's assistant, and a TB screening completed within the 12 months preceding the date of hire;
 - (c) evidence of trainings, skills competency determinations and recertifications as required by these rules and, if applicable, the Rules for Proxy Caregivers, Chapter 111-8-100;
 - (d) employment history, including previous places of work, employers and telephone contacts with previous employers;
 - (e) supporting documentation reflecting that the employee has the basic qualifications as represented, e.g. documentation of good standing by nursing board, no findings of abuse, neglect or exploitation entered against the individual in the nurse aide registry, satisfactory report of motor vehicle driving record where the employee may be transporting residents; and
 - (f) written evidence of satisfactory initial and annual work performance reviews for unlicensed staff providing hands-on personal care. Where the unlicensed staff perform specialized tasks, such as health maintenance activities, assistance with medications or medication administration, such performance reviews must include the satisfactory completion of skills competency checklists as specified in applicable rules. Such reviews must be conducted by staff or contractors qualified by education, training and experience to assess that the assigned duties are being performed in accordance with these rules and accepted health and safety standards.
- (16) Where the assisted living community permits a resident to hire his or her own companion-sitter, proxy caregiver to perform health maintenance activities or aide of any sort, the assisted living community must require assurance that the companion-sitter, proxy caregiver or aide so hired is familiar with emergency evacuation routes and has documentation reflecting compliance with the provisions of the Rules for Proxy Caregivers, Chapter 111-8-100, as applicable.
- (17) The administrator, on-site manager, and staff persons must not be under the influence of alcohol or other controlled substances while engaged in any work-related activity on behalf of the assisted living community.
- (18) The community must maintain an average monthly minimum on-site staff to resident ratio of one awake direct care staff person per 15 residents during waking hours and one awake direct care staff person per 20 residents during non-waking hours where the residents have minimal care needs. However, the assisted living community must staff above these minimum on-site staff ratios to meet the specific residents' ongoing health, safety and care needs.
- (a) Staff, such as cooks and maintenance staff, who do not receive on-going direct care training and whose job duties do not routinely involve the oversight or delivery of direct personal

care to the residents, must not be counted towards these minimum staffing ratios. Personnel who work for another entity, such as a private home care provider, hospice, etc. or private sitters cannot be counted in the staff ratios for the assisted living community.

- (b) At least two on-site direct care staff persons must be on the premises 24 hours per day providing supervision whenever residents are present, with at least one staff person on each occupied floor.
 - (c) A registered professional nurse or licensed practical nurse must be on-site to support care and oversight of the residents, as follows:
 - (i) For communities with one to 30 residents, a minimum of eight hours per week;
 - (ii) For communities with 31 to 60 residents, a minimum of 16 hours per week;
 - (iii) For communities with 61 to 90 residents, a minimum of 24 hours per week; or
 - (iv) For communities with more than 90 residents, a minimum of 40 hours per week.
 - (d) Residents must be supervised consistent with their needs.
- (19) Sufficient staff time must be provided by the assisted living community such that each resident:
- (a) receives services, treatments, medications and diet as prescribed;
 - (b) receives proper care to prevent decubitus ulcers and contractures;
 - (c) is kept comfortable and clean;
 - (d) is treated with dignity, kindness, and consideration and respect;
 - (e) is protected from avoidable injury and infection;
 - (f) is given prompt, unhurried assistance if she or he requires help with eating;
 - (g) is given assistance, if needed, with daily hygiene, including baths and oral care; and
 - (h) is given assistance in transferring and assisted self-preservation when needed.
- (20) All persons, including the administrator or on-site manager, who offer direct care to the residents on behalf of the assisted living community, must maintain an awareness of each resident's normal appearance and must intervene, as appropriate, if a resident's state of health appears to be in jeopardy.
- (21) All assisted living communities must develop and maintain accurate staffing plans that take into account the specific needs of the residents and monthly work schedules for all employees, including relief workers, showing planned and actual coverage for each day and night. The assisted living community must retain the completed staff schedules for a minimum of one year.
- (22) Staff must wear employee identification badges which are readily visible with abbreviations for professional/special credentials displayed on the badges, if any.

Rule 111-8-63-.10 Community Accountability

- (1) The records required by these rules and other records maintained in the normal course of the business of the community must be available for inspection and review by properly identified representatives of the Department.
- (2) Where the Department identifies rule violations, the assisted living community will receive a written report of inspection. If the assisted living community disagrees with the facts and conclusions stated in the inspection report, it must submit its written statement explaining its disagreement and any evidence supporting the disagreement to the Department within 10 days of the receipt of the written inspection report. Where the Department concurs with the written statement of the assisted living community, it will issue a revised inspection report to the assisted living community.
- (3) Within 10 days of receipt of the written report of inspection, the assisted living community must develop a written plan for correcting any rule violations identified. The plan of correction must identify the specific actions that the assisted living community will take by date certain to come into compliance with each rule for which a deficient practice was identified.
- (4) A copy of the most recent inspection report and plan of correction must be displayed in the assisted living community in a location that is routinely used by the community to communicate information to residents and visitors. Additionally, if the community maintains a website, it shall post a web link in a prominent location on the main page of the website that provides access to copies of all inspection reports and plans of correction from the previous 18 months. When the Department develops a website for receiving plans of correction electronically and notifies the community of the appropriate internet address, the community also must file its plan of correction electronically on the Department's website within 10 days of receipt of the report of inspection.
- (5) The assisted living community must take the corrective actions necessary to achieve compliance with the rules.
- (6) The assisted living community must complete and maintain an accurate and current licensed residential care profile on file with the Department when the Department makes available a system for the submission and collection of such information electronically.
- (7) The assisted living community must provide services that are consistent with the information reported on its licensed residential care profile, its license and these rules.
- (8) The assisted living community's marketing materials must be consistent with its licensure classification as an assisted living community, the information reported on its licensed residential care profile, and these rules.
- (9) Only an assisted living community licensed pursuant to these rules may hold itself out as offering assisted living care.
- (10) Effective October 1, 2021, no memory care center shall be operated and no residents admitted without a certificate which is current under these rules and regulations.

Rule 111-8-63-.11 Community Design and Use Requirements

- (1) An assisted living community shall be designed, constructed, arranged, and maintained so as to provide for all of the following:
 - (a) health, safety, and well-being of the residents;

- (b) independence, privacy and dignity of the residents; and
 - (c) safe access of all residents with varying degrees of functional impairments to living, dining and activity areas within the assisted living community.
- (2) An assisted living community which undergoes major structural renovation or is first constructed after the effective date of these rules must be designed and constructed in compliance with applicable state and local building and fire codes.
- (3) The assisted living community must have handrails, doorways and corridors which accommodate mobility devices, such as walkers, wheel chairs and crutches or canes as the residents may require for their safety.
- (4) Assisted living communities serving persons dependent upon wheelchairs for mobility must provide at least two (2) exits from the community which are remote from each other and wheelchair accessible.
- (5) **Common Areas.** The assisted living community must have common areas which meet the following requirements:
- (a) The assisted living community must have separate and distinct living room(s) which are conveniently located within easy walking distance of each resident's private living space, available for the residents' informal use at any time and not requiring any resident to leave the building to use.
 - (b) The assisted living community must have living rooms large enough to accommodate the residents without crowding. The rooms must be comfortably and attractively furnished.
 - (c) The assisted living community must have areas in the community for use by residents and visitors which afford them privacy.
 - (d) The assisted living community must have a kitchen and a comfortable dining area which are properly equipped and adequate in size for the number of residents being served.
 - (e) All stairways and ramps must have sturdy and securely fastened handrails, not less than 30 inches nor more than 34 inches above the center of the tread. Exterior stairways, decks and porches must have handrails on the open sides.
 - (f) Floor coverings must be intact and securely fastened to the floor and free of hazards that might cause tripping.
 - (g) All areas of the assisted living community, including hallways and stairs must provide sufficient ambient lighting such that the residents may move about safely and objects may be easily observed by the residents. In addition, appropriate task lighting necessary for more visually demanding activities such as reading, knitting or preparing food must also be provided for resident use.
 - (h) The assisted living community must provide laundering facilities on the premises for residents' personal laundry.

- (i) An assisted living community which provides laundry services for the residents must have a storage area that is used for clean laundry that is separate from the dirty laundry.
 - (j) Common areas, such as living, dining, activity, laundry or other multi-purpose rooms, or hallways must not be used as sleeping accommodations for residents, family or staff.
- (6) **Bedrooms or Private Living Spaces.** The assisted living community must have bedrooms or private living spaces for the residents which meet the following requirements:
- (a) Bedrooms or private living spaces assigned to individual residents must have at least 80 square feet of usable floor space per resident with no more than two residents sharing the private living space. Usable floor space is defined as that floor space under a ceiling at least seven feet in height. However, licensed personal care homes approved prior to or on February 6, 1981 to operate with bedrooms with a minimum of 70 square feet of usable floor space per resident which have continuously operated since that date seeking licensure as assisted living communities, may continue to use the minimum 70 square feet standard. Where an assisted living community operating under this exception has its permit revoked, changes ownership, changes location, or undergoes extensive renovations, or for any other reason surrenders its permit, this exception regarding the minimum square footage is no longer available.
 - (b) The resident's private living space must be self-contained and separated from halls, corridors and other rooms by floor to ceiling walls and must not be used as a passageway or corridor by others to access other parts of the assisted living community.
 - (c) The resident's private living space must have at least one window opening through an exterior wall of the assisted living community.
 - (d) Each sleeping room must have a secondary exit. This secondary exit may be a door or a window usable for escape.
 - (e) A room must not be used as a bedroom or private living space where more than one-half the room height is below ground level. Bedrooms or private living spaces which are partially below ground level must have adequate natural light and ventilation and have two useful means of egress. Control of dampness must be assured.
 - (f) Doorways of bedrooms or private living spaces occupied by residents must be equipped with side-hinged permanently mounted doors equipped with positively latching hardware which will insure opening of the door by a single motion, such as turning a knob or by pressing with normal strength on a latch. For bedrooms or private living spaces which have locks on doors, both the occupant and staff must be provided with keys to assure easy entry and exit.
- (7) **Bathing and Toileting Facilities.** The assisted living community must provide bathing and toileting facilities that meet the accessibility needs of the residents and the following requirements:
- (a) At least one toilet and lavatory must be provided for each four residents' use based on the licensed capacity of the assisted living community.
 - (b) At least one bathing or showering facility must be provided for each eight residents based on the licensed capacity of the assisted living community. Assisted living communities serving

residents who are dependent on wheel chairs or walkers, for mobility must have fully accessible bathrooms available for these residents.

- (c) There must be at least one toilet and lavatory provided on each floor where residents have bedrooms.
 - (d) There must be a separate toilet and lavatory for the staff's use that is not counted in the minimum ratio of toilets and lavatories required for residents.
 - (e) Grab bars and nonskid surfacing or strips must be properly installed in all showers and bath areas.
 - (f) Bathrooms and toilet facilities must have working exhaust fans vented to the outside or windows that are screened and open to the outside easily.
 - (g) Toilets, bathtubs and showers must provide for individual privacy.
- (8) **Electrical Inspection.** An applicant to operate an assisted living community must submit evidence of a satisfactory inspection of the electrical service of the assisted living community by a qualified electrician within no more than six months prior to the date of filing the application for a permit. However, where the applicant holds a personal care home permit for the premises at the time of the application to become an assisted living community, no new electrical inspection is required unless renovation or repair work has been done since the last electrical inspection. Electrical service must be maintained in a safe condition at all times. The Department may require a re-inspection of the electrical service at any time renovation or repair work is done in the assisted living community or there is a request for a change in capacity or there is reason to believe that a risk to residents exists.
- (9) **Fire Safety.** The assisted living community must have an effective fire safety program for the benefit of the residents which takes into account the unique needs of the residents being served.
- (a) The assisted living community must comply with applicable fire and safety rules published by the Office of the Safety Fire Commissioner.
 - (b) The assisted living community must comply with applicable local ordinances that specifically address fire safety.
 - (c) The assisted living community is required to obtain a repeat fire safety inspection if at any time the physical plant undergoes substantial repair, renovation or additions.
 - (d) Where the Department has reason to believe, based on the number of residents requiring assisted self-preservation and staffing patterns that an assisted living community may not be able to evacuate all of the residents to a designated point of safety within an established period of time as determined by the Office of the Safety Fire Commissioner, the Department may either require the assisted living community to conduct an immediate fire safety drill or make a referral for a new compliance determination to the Office of the State Fire Commissioner.
- (10) **Water and Sewage.** The assisted living community's water and sewage systems must meet applicable federal, state, and local regulations.

- (11) **Outdoor Spaces.** Assisted living communities must provide or have conveniently located access to outdoor spaces for the use of the residents and access to parking spaces for the use of residents and visitors. Such outdoor spaces may include solaria, porches, balconies, roof decks, gardens or patios.

Rule 111-8-63-.12 Community Furnishings

- (1) The assisted living community must provide furnishings throughout the assisted living community for the use of the residents that are maintained in good condition, intact, and functional.
- (2) The assisted living community must provide a name plate, or other identification, outside the resident's bedroom or personal living space that marks the area as the personal living space of the particular resident(s), unless the resident specifically requests no identification markers to be used.
- (3) Each resident's bedroom or private living space must have an adequate closet or wardrobe.
- (4) Each resident's bedroom or private living space must have working lighting fixtures sufficient for reading and other resident activities.
- (5) If the community provides the furnishings, each resident's bedroom or private living space must have a bureau or dresser or the equivalent and at least one comfortable chair per resident in each bedroom or private living space.
- (6) Each resident bedroom must have a mirror appropriate for grooming unless the resident or resident's representative explicitly requests to have the mirror removed.
- (7) Each resident's bedroom or private living space must have a waste basket unless the resident or resident's representative specifically requests to have it removed.
- (8) The assisted living community must allow the resident to personalize the bedroom or private living space as the resident chooses by permitting the resident to use personal furniture so long as such furnishings do not pose a threat to the health or safety of the other residents. The assisted living community must provide the resident with assistance in mounting or hanging pictures on bedroom walls.
- (9) Each resident must have an individual bed which is at least 36-inches wide and 72-inches long with comfortable springs and mattress, clean and in good condition. Where a particular resident is very tall, the assisted living community must provide an extra-long mattress. The mattress must not be less than five-inches thick, or four-inches, if of a synthetic construction. Roll-a-ways, cots, double-decks, stacked bunks, hide-a-beds and studio couches are not to be provided by the assisted living community in lieu of standard beds. However, residents who prefer to furnish their own living units may choose to use different-sized beds in lieu of standard twin-size beds.
- (10) The assisted living community must make available for each resident who requires linen service an adequate supply of clean linens which includes, at a minimum, two sheets, pillow, pillowcase, blanket, bedspread, towels and wash cloth. If the resident requires more blankets for comfort, the assisted living community must provide them.
- (11) The assisted living community must change and launder linens for each resident at least weekly or more often unless the resident specifically declines the linen service. Whether or not the resident declines linen services, the assisted living community must maintain an adequate supply of spare

linens on hand to accommodate the needs of the residents.

- (12) At least one current calendar and working clock must be placed in the common living area of each assisted living community.

Rule 111-8-63-.13 Community Safety Precautions

- (1) The interior and exterior of the assisted living community must be kept clean, in good repair and maintained free of unsanitary or unsafe conditions which might pose a health or safety risk to the residents and staff.
- (2) Where the assisted living community includes private living space for persons who are not receiving services as residents of the assisted living community, the maintenance of the private living space must comply with fire safety codes and not threaten the health or safety of the residents.
- (3) The assisted living community must maintain wall-type electric outlets and working lamps or light fixtures throughout the assisted living community in good working order and which are safe for the intended use. The assisted living community must provide necessary light bulbs.
- (4) Refrigeration and cooking appliances must be properly installed, maintained in accordance with manufacturer's recommendations and kept clean. Where metal hoods or canopies are provided, they must be equipped with filters which are maintained in an efficient condition and kept clean at all times.
- (5) Space heaters must not be used, except during an emergency situation after obtaining specific written approval of the fire safety authority having jurisdiction over the assisted living community.
- (6) Fire screens and protective devices must be used with fireplaces, stoves and heaters.
- (7) Each assisted living community must be protected with sufficient functioning smoke detectors, powered by house electrical service with battery back-up, which when activated, must initiate an alarm which is audible in the sleeping rooms.
- (8) Each assisted living community must have charged 5 lb. or more multipurpose ABC fire extinguishers available for use throughout the community as required by state or local fire codes, whichever is more stringent. These fire extinguishers shall be checked and tagged annually by a licensed fire extinguisher company to assure the extinguishers remain in operable condition.
- (9) Each assisted living community must have a working doorbell or doorknocker which is audible to staff inside at all times.
- (10) Exterior doors must be equipped with locks which do not require keys to open them from the inside.
- (11) Entrances and exits, sidewalks, and escape routes must be maintained free of any hazards such as refuse, equipment, furniture, ice, snow, debris or any other impediments to ensure complete and immediate entry and exit in the case of fire or other emergency.
- (12) The assisted living community must have its name and house number displayed so as to be easily visible from the street.

- (13) The assisted living community must store and safeguard poisons, caustics, and other dangerous materials in safe areas and separate from food preparation and storage areas, and medication storage areas.
- (14) Heated water must be made available by the assisted living community to the residents for their usage and must be comfortable to the touch but must not exceed 120 degrees Fahrenheit (F.).
- (15) Where the assisted living community provides transportation to the residents, the assisted living community must maintain on the vehicle: basic emergency contact information on the residents being transported.

Rule 111-8-63-.14 Emergency Preparedness

- (1) An assisted living community must comply with the requirements of Chapter 111-8-16, Rules and Regulations for Disaster Preparedness Plans.
- (2) Building evacuation maps with routes of escape clearly marked must be posted conspicuously on each floor of the assisted living community. Assisted living communities must have a clearly accessible route for emergencies throughout the common areas of the assisted living community.
- (3) The disaster preparedness plan must be readily accessible to staff, residents and their families at the assisted living community and identify the staff position(s) responsible for implementing the plan, obtaining necessary emergency medical attention or intervention for residents.
- (4) The assisted living community must provide timely notification of the relocation address to the residents, their family contacts and representatives, if any, and the Department whenever the assisted living community must relocate the residents as a result of an emergency situation which disrupts the provision of room and board for the residents at the licensed location.

Rule 111-8-63-.15 Admission and Resident Retention

- (1) **Resident Profile for Admission.** The assisted living community must determine that the potential resident must meet all of the following criteria at the time of admission:
 - (a) The resident must be an adult who is at least 18 years of age.
 - (b) The resident must not have active tuberculosis, or require continuous medical or nursing care and treatment or require physical or chemical restraints, isolation or confinement for behavioral control.
 - (c) The resident's physical condition must be such that the resident is capable of actively participating in transferring from place to place.
 - (d) The resident must be able to participate in the social and leisure activities provided in the assisted living community.
- (2) **Evaluation of Applicants for Admission.** In determining whether the assisted living community will be able to meet the needs of the applicant for admission to the assisted living community, the administrator or on-site manager of an assisted living community must consider and maintain documentation of the following:
 - (a) the information provided in an interview with the applicant and/or representative or legal

surrogate, if any, regarding the applicant's care and social needs and behavioral issues that may require more watchful oversight;

- (b) a physical examination conducted by a licensed physician, nurse practitioner or physician's assistant dated within 30 days prior to the date of admission which reflects that the resident does not require continuous medical or nursing care and services and is free of active tuberculosis. The report of the physical examination must be completed on forms made available by the Department;
 - (c) either the results of an inquiry of the National Sex Offender Registry website coordinated by the Federal Bureau of Investigation or a fingerprint records check;
 - (d) where the applicant for admission is a registered sex offender or has committed another violent crime, the assisted living community must document the additional safety measures that the assisted living community will employ to ensure the safety of all residents, such as additional monitoring, room and roommate selection and in-servicing of staff; and
 - (e) whether the applicant for admission has retained the services of a designated proxy caregiver which complies with the requirements of the Rules and Regulations for Proxy Caregivers Used In Licensed Healthcare Facilities, Chapter 111-8-100.
- (3) **Emergency Placement.** Where the applicant for admission is being evaluated for admission pursuant to an emergency placement made at the request of the Adult Protective Services Section of the Division of Aging Services, Department of Human Services or another licensed facility that is requesting the placement pursuant to activation of its emergency preparedness plan for relocation of residents, the complete physical examination required by Rule 111-8-63-.16(2)(b) may be deferred for up to 14 days after the emergency admission if no record of a qualifying physical examination or a copy of a current clinical record is available at the time of admission.
- (4) **Community Admission Decisions.** The assisted living community must not admit residents who either do not meet the admission profile or who meet the profile but whose care needs cannot be met by staff available to provide assistance. The assisted living community's decision to admit a resident must reflect that it has taken into account the condition of the resident to be admitted, the needs of currently admitted residents, the assistance with self-preservation current residents require, and the construction of the building including whether such building meets the state fire safety requirements applicable to an existing health care occupancy.
- (5) **Community Retention Decisions.** The assisted living community must require a resident to move out when any one of the following occurs:
- (a) The resident requires continuous medical or nursing care.
 - (b) The resident's specific care needs cannot be met by available staff in the community, e.g., the resident is not ambulatory and not capable of assisted self-preservation.
 - (c) The community is not able to evacuate all of the current residents to a point of safety within established fire safety standards.
- (6) **Change in Condition Requiring Reevaluation.** In the event a resident develops a significant change

in physical or mental condition, the assisted living community must obtain medical information necessary to determine that the resident continues to meet the retention requirements and the assisted living community is capable of meeting the resident's needs. Where the Department has reason to believe either that the assisted living community cannot meet needs of the resident or the resident no longer meets the retention criteria for living in the licensed assisted living community, the governing body must provide to the Department, upon request, a current physical examination for the resident from a physician, advanced practice registered nurse or physician's assistant as properly authorized.

Rule 111-8-63-.16 Admission Agreements

- (1) **Contents of the Written Admission Agreement.** The assisted living community must ensure that the admission agreement is written in plain and understandable language and is consistent with the information contained on the licensed residential care profile.
 - (a) The admission agreement must include 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 assisted living community provides on an additional fee basis.
 - (b) The admission agreement must contain a statement that residents 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.
 - (c) The admission agreement must contain provisions for the administrator or on-site manager's continuous assessment of the resident's needs, referral for appropriate services as may be required if the resident's condition changes and referral for transfer or discharge if required due to a change in the resident's condition.
 - (d) The admission agreement must contain a description of how the community responds to formal complaints received from residents and their representatives and how to file a complaint within the community.
 - (e) The admission agreement must contain provisions for transportation of residents for shopping, recreation, rehabilitation, medical services. Such transportation service may be provided by the assisted living community as either a basic service or on a reimbursement basis; with transportation for emergency use available at all times.
 - (f) The admission agreement must include the assisted living community's refund policy when a resident dies, is transferred or discharged.
 - (g) The admission agreement must include a statement that a resident may not be required to perform services for the assisted living community.
 - (h) The admission agreement must include a copy of the house rules, which must be in writing and also posted in the assisted living community and explain how violations of the house rules will be addressed by the community. House rules must be consistent with residents' rights. House rules must include, but not be limited to policies regarding the use of tobacco and alcohol, the times and frequency of use of the telephone, visitors elopement from the community, hours and volume for viewing and listening to television, radio and other

audiovisual equipment, whether residents' personal pets or household pets are permitted and the use of personal property.

- (i) The admission agreement must disclose how and by what level of staff medications are handled in the community. The agreement must also specify who is responsible for initial acquisition and refilling of prescribed medications utilizing unit or multidose packaging for the resident. Either this responsibility will remain with the resident, representative or legal surrogate, if any, or be assigned to the assisted living community operating through the administrator or on-site manager.
 - (j) The admission agreement must disclose whether the community permits the resident to employ independent proxy caregivers, sitters, etc. or requires the purchase of such services from approved providers.
- (2) The assisted living community must provide each resident, representative, legal surrogate with an opportunity to read the complete agreement prior to the execution of the admissions agreement. In the event that a resident, representative or legal surrogate is unable to read the agreement, the administrator or on-site manager must take steps to assure communication of the contents of the admission agreement to be signed.
- (3) The assisted living community must provide the resident and representative or legal surrogate, if any, with a signed copy of the agreement. A copy signed by both parties (resident and administrator or on-site manager) must be retained in the resident's file and maintained by the administrator or on-site manager of the assisted living community.
- (1) The assisted living community must not use a written admission agreement or any other written agreement signed by the resident or the resident's legal representative which waives or attempts to waive any of the resident's rights these rules protect.

Rule 111-8-63-.17 Services in the Community

- (1) The assisted living community must provide assisted living, including protective care and watchful oversight, which meets the needs of the residents it admits and retains.
- (2) **Resident Needs Assessment.** The assisted living community must complete an assessment of the resident that addresses the resident's care needs taking into account the resident's family supports, the resident's functional capacity relative to the activities of daily living, physical care needs, medical information provided, cognitive and behavioral impairments, if any, and personal preferences relative to care needs.
- (3) **Written Care Plan.** Utilizing the information acquired during the admission process and the move-in adjustment period, the assisted living community must develop the resident's individual written care plan within 14 days of admission and require staff to use the care plan as a guide for the delivery of care and services to the resident. The care plan must include the following:
- (a) a description of the resident's care and social needs and the services to be provided, including frequency to address care and social needs;
 - (b) resident's particular preferences regarding care, activities and interests;

- (c) specific behaviors to be addressed with interventions to be used;
 - (d) any physician order or order of a nurse practitioner or physician assistant working under protocol or job description, respectively for assistive devices;
 - (e) staff primarily responsible for implementing the care plan;
 - (f) evidence of family involvement in the development of the plan when appropriate; and
 - (g) evidence of the care plan being updated at least annually and more frequently where the needs of the resident change substantially or the resident is assigned to a memory care center.
- (4) **Social Activities.** Each assisted living community must provide social activities on a daily basis that promote the physical, mental and social well-being of each resident and take into account the personal preferences of the residents.
- (5) **Activity Resources.** The assisted living community must provide, books, current newspapers or magazines, and games for leisure time activities. The assisted living community must offer assistance to residents who wish to participate in hobbies, music, arts and crafts, religion, games, and sports, social, recreational and cultural activities available in the assisted living community and in the community.
- (6) **Available Telephone.** The assisted living community must have at least one operable, non-pay telephone which is accessible at all times for emergency use by staff on the premises. Residents must also have access to an operable, non-pay telephone in a private location, both to make and receive personal calls. The same telephone may be used for staff and resident access.
- (7) The assisted living community must not restrict a resident's free access to the common areas of the assisted living community or the memory care center or lock the resident into or out of the resident's bedroom.
- (8) **Proxy Caregiver Services.** Where the assisted living community chooses to allow proxy caregivers to function in the community to perform certain health maintenance activities that are not covered in the basic assisted living care the community is required to provide, the assisted living community must do either of the following:
- (a) Provide employees who are available for designation by a resident to serve as proxy caregivers to perform certain health maintenance activities; or
 - (b) Permit the resident or a person legally authorized to act on behalf of the resident to employ designated proxy caregivers to provide health maintenance activities.
- (9) **Proxy Caregiver Records.** The community must maintain documentation on all proxy caregivers performing health maintenance activities which complies with the Rules and Regulations for Proxy Caregivers, Chapter 111-8-100.
- (10) **Prohibited Proxy Caregiver Services.** Where the assisted living community employs proxy caregivers, the community must not permit proxy caregivers to provide assistance with or administer medications.

- (11) Medical, nursing (other than developing and updating care plans, training, medication administration and skills competency determinations) health services required on a periodic basis, or for short-term illness, must not be provided as services of the assisted living community. When such services are required, they shall be purchased by the resident or the resident's representative or legal surrogate, if any, from appropriately licensed providers which are managed independently and not owned or operated by the assisted living community. The assisted living community may assist in arrangement for such services, but not in the provision of those services.

Rule 111-8-63-.18 Precautions for Residents at Risk of Elopement

- (1) An assisted living community which serves residents with cognitive deficits which place the residents at risk of eloping, i.e. engaging in unsafe wandering activities outside the assisted living community must do the following:
- (a) Develop, train and enforce policies and procedures for staff to deal with residents who may wander away from the assisted living community including what actions, are to be taken if a resident wanders away (elopes) from the assisted living community.
 - (b) Utilize appropriate effective safety devices, which do not impede the residents' rights to mobility and activity choice or violate fire safety standards, to protect the residents who are at risk of eloping from the premises.
 - 1. If the safety devices include magnetic locks used on exit doors, as approved by the fire marshal having jurisdiction over the assisted living community, then the locking device shall be electronic and release whenever the following occurs: activation of the fire alarm or sprinkler system, power failure to the assisted living community or by-pass for routine use by the public and staff for service using a key button/key pad located at the exit or continuous pressure for thirty (30) seconds or less.
 - 2. If the safety devices include the use of keypads to lock and unlock exits, then directions for their operations shall be posted on the outside of the door to allow individuals' access to the unit. However, if the unit is a whole assisted living community, then directions for the operation of the locks need not be posted on the outside of the door. The units must not have entrance and exit doors that are closed with non-electronic keyed locks nor shall a door with a keyed lock be placed between a resident and the exit.
- (2) An assisted living community serving residents who are at risk of eloping from the premises must retain on file at the assisted living community current pictures of any such residents.

Rule 111-8-63-.19 Additional Requirements for Certified Memory Care Centers

- (1) In addition to all other requirements contained in this Chapter, where an assisted living community holds itself out as providing additional or specialized care to persons with probable diagnoses of Alzheimer's Disease or other dementia, or charges rates in excess of that charged other residents for the provision of additional or specialized care, the assisted living community must meet the following requirements:
- (a) **Written Description.** The assisted living community must include in its licensed residential care profile an accurate written description of the memory care center that includes the following:

1. a statement of philosophy and mission;
2. how the services and activities of the center are different from those provided in the rest of the assisted living community;
3. staffing including job titles of staff who work in the center, staff training and continuing education requirements;
4. admission procedures, including screening criteria;
5. assessment and service planning protocol, including criteria to be used that would trigger a reassessment of the resident's status before the customary quarterly review;
6. staffing patterns, including the ratio of direct care staff to resident for a 24-hour cycle, and a description of how the staffing pattern differs from that of the rest of the program;
7. a description of the physical environment including safety and security features;
8. a description of activities, including frequency and type, and how the activities meet the needs of residents with dementia,
9. the program's fee or fee structure for all services provided by the center or assisted living community;
10. the discharge criteria and procedures;
11. the procedures that will be utilized for handling emergency situations; and
12. the involvement of the center with families and family support programs.

(b) **Physical Design, Environment, and Safety.** The memory care center must be designed to accommodate residents with severe dementia or Alzheimer's Disease in an assisted living community-like environment which includes the following:

1. multipurpose room(s) for dining, group and individual activities which are appropriately furnished to accommodate the activities taking place;
2. secured outdoor spaces and walkways which are wheel chair accessible and allow residents to ambulate safely but prevent undetected egress;
3. high visual contrast between floors and walls and doorways and walls in resident use areas-except for fire exits, door and access ways which may be designed to minimize contrast to conceal areas where the residents should not enter;
4. adequate and even lighting which minimizes glare and shadows;
5. the free movement of the resident, as the resident chooses, between the common space and the resident's own personal space in a bedroom that accommodates no more than two (2) residents;
6. individually identified entrances to residents' rooms to assist residents in readily

identifying their own personal spaces;

7. an effective automated device or system to alert staff to individuals entering or leaving the unit in an unauthorized manner. An assisted living community need not use an automated alert for an exit door when the particular exit is always staffed by a receptionist or other staff member who views and maintains a log of individuals entering and leaving the assisted living community. If the exit door is not always staffed, then the assisted living community must activate an automated alert when the door is not attended;
 8. communication system(s) which permit staff in the unit to communicate with other staff outside the center and with emergency services personnel as needed; and
 9. a center providing specialized memory care services which undergoes major renovation or is first constructed after December 9, 2009, must be designed and constructed in compliance with applicable state and local building and fire codes relevant to the center and the assisted living community.
- (c) **Staffing Requirements.** The assisted living community must ensure that the memory care center is staffed with sufficient specially trained staff to meet the unique needs of the residents in the center. At a minimum, the memory care center must provide the following staffing:
- (i) One dementia trained direct care staff person for every 12 residents on-site during all waking hours and for every 15 residents on-site during all nonwaking hours based on a monthly average; provided, however, that such ratio is adequate to meet the needs of the residents;
 - (ii) One registered professional nurse, licensed practical nurse, or certified medication aide on-site at all times;
 - (iii) Two direct care staff persons on-site at all times, with at least one on each occupied floor; and
 - (iv) One registered professional nurse or licensed practical nurse on-site or available in the building at all times as follows:
 - (A) For memory care centers with one to 12 residents, a minimum of eight hours per week;
 - (B) For memory care centers with 13 to 30 residents, a minimum of 16 hours per week;
 - (C) For memory care centers with 31 to 40 residents, a minimum of 24 hours per week; or
 - (D) For memory care centers with more than 40 residents, a minimum of 40 hours per week.

- (d) **Staff Training Requirements.** The community shall ensure that all staff are properly trained initially and on an annual basis to provide safe, quality care to residents in the memory care center. The memory care center shall meet the following training requirements:
- (i) General Orientation. All staff, regardless of role, shall receive at least four (4) hours of dementia-specific orientation within the first thirty (30) days of working in the center. Such orientation shall include:
 - (A) Basic information about the nature, progression, and management of Alzheimer's and other dementias;
 - (B) Techniques for creating an environment that minimizes challenging behavior from residents with Alzheimer's and other dementias;
 - (C) Methods of identifying and minimizing safety risks to residents with Alzheimer's and other dementias; and
 - (D) Techniques for successful communication with individuals with Alzheimer's and other dementias.

 - (ii) Direct Care Orientation. All direct care staff shall receive initial orientation training within the first thirty (30) days of caring for residents independently that, at a minimum, includes:
 - (A) General training, to include:
 - (I) Development, updating, and implementation of comprehensive and individual service plans;
 - (II) Skills for recognizing physical or cognitive changes in the resident that warrant seeking medical attention;
 - (III) Residents' rights and identification of conduct constituting abuse, neglect, or exploitation;
 - (IV) General infection control principles;
 - (V) Emergency preparedness training;
 - (VI) Emergency first aid; and
 - (VII) Cardiopulmonary resuscitation.

 - (B) A minimum of sixteen (16) hours of specialized training, to include:
 - (I) The nature of Alzheimer's and other dementias;
 - (II) The center's philosophy related to the care of residents with Alzheimer's and other dementias;
 - (III) The center's policies and procedures related to care of residents with Alzheimer's and other dementias;
 - (IV) Common behavior problems characteristic of residents with Alzheimer's and other dementias;
 - (V) Positive therapeutic interventions and activities;
 - (VI) Skills for maintaining the safety of the resident; and
 - (VII) The role of the family in caring for residents with Alzheimer's and other dementias

- (iii) Ongoing Training. Direct care staff shall complete a minimum of eight (8) hours of specialized training in dementia care on an annual basis.
 - (iv) Training Documentation. The memory care center shall maintain documentation reflecting course content, instructor qualifications, agenda, and attendance rosters for all training sessions provided.
- (e) **Special Admission Requirements for Memory Care Center Placement.** Residents must have a physician's report of physical examination completed within 30 days prior to admission to the community or unit on forms made available by Department. The physical examination must clearly reflect that the resident has a diagnosis of probable Alzheimer's Disease or other dementia and has symptoms which demonstrate a need for placement in the center. However, the unit may also care for a resident who does not have a probable diagnosis of Alzheimer's Disease or other dementia, but desires to live in this unit and waives his or her right to live in a less restrictive environment. In addition, the physical examination report must establish that the potential resident of the unit does not require 24-hour skilled nursing care.
- (f) **Post-Admission Assessment.** If the resident is admitted directly into the memory care center, the center must obtain an assessment of each resident's care needs to include the following components: resident's family supports, level of activities of daily living functioning, physical care needs and level of behavior impairment.
- (g) **Individual Written Care Plan and Reviews.** The resident's written care plan will be developed or updated by staff with at least one member of the specialized memory care staff providing direct care participating. Input from each shift of direct care staff that provides care to the resident will be requested. All team members participating shall sign the written care plan and the plan will be shared with the direct care staff providing care to the resident and serve as a guide for the delivery of care to the resident. The written care plan must be reviewed at least quarterly and modified as changes in the resident's needs occur.
- (h) **Therapeutic Activities.** The unit shall provide activities appropriate to the needs of the individual residents and adapt the activities, as necessary, to encourage participation of the residents in the following at least weekly with at least some therapeutic activities occurring daily:
1. gross motor activities; e.g. exercise, dancing, gardening, cooking, etc;
 2. self-care activities; e.g. dressing, personal hygiene/grooming;
 3. social activities; e.g. games, music;
 4. sensory enhancement activities, e.g. distinguishing pictures and picture books, reminiscing and scent and tactile stimulation; and
 5. outdoor activities; e.g. walking outdoors and field trips.
- (2) No licensed assisted living community is permitted to hold itself out as providing specialized care for residents with probable Alzheimer's disease or other dementia or charge a differential rate for care of such residents unless it meets the additional requirements specified in Rule 111-8-63-.19(1) and

its subparagraphs (a) through (h) above.

Rule 111-8-63-.20 Medications

- (1) **Self-Administration of Medications.** Residents who have the cognitive and functional capacities to engage in the self-administration of 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.
- (2) **Assistance with Self-Administration.** An assisted living community must provide assistance with or supervision of self-administered medications to those residents who have the cognitive capacity to engage in the self-administration of medications, but require or request staff assistance with or supervision of the self-administration of medications for safety or convenience.
 - (a) Such staff assistance with or supervision of self-administered medications may only be provided for unit or multi-dose packaged medications prescribed for the particular resident and may include only the following tasks:
 1. taking the medication, in its previously dispensed, properly labeled container, from where it is stored, and bringing the medication to the resident;
 2. reading the label, opening the container, removing a prescribed amount of medication from the container, and closing the container, in the presence of the resident;
 3. placing an oral dosage in the resident's hand or placing the dosage in another container where the resident requests assistance;
 4. applying topical medications;
 5. returning the medication container to proper secured storage; and
 6. assisting the resident's use of an EPI pen where the resident has known severe allergies for which an EPI pen has been prescribed on condition that there is an established written protocol detailing how it is to be used and when. The protocol must include immediately calling Emergency Services, 911, after any use of the EPI pen.
 - (b) Staff assisting with or supervising self-administration of medications must be proficient in English and able to read, write and follow written instructions in English.
- (3) **Community Administration of Medications.** Where the residents either are not capable of self-administration of medications or choose not to self-administer medications with assistance or supervision, the assisted living community must provide medication administration services to the residents in accordance with physicians' orders, the needs of the residents and these rules.
- (4) **Specialized Staffing for Medication Administration.** The assisted living community offering medication administration services must employ certified medication aides, at a minimum, to administer medications.
- (5) **Certified Medication Aide Requirements.** An assisted living community using certified medication aides to administer specific medications must do all of the following:

- (a) **Check the Registry.** Ensure that the medication aides employed in the community are listed in good standing on the Georgia Certified Medication Aide Registry and have no record of being terminated for cause relating to the performance of medication aide tasks before permitting the aides to administer medications.
- (b) **Administer Skills Competency Checks.** Determine and document that the medication aides who have been certified for more than one year upon hiring, continue to have the knowledge and skills necessary to administer medications properly for the particular community. The community must use a skills competency checklist which meets the requirements contained in the standardized clinical skills competency checklist used to certify medication aides.
- (c) **Quarterly Observations.** Use a licensed registered professional nurse or a pharmacist to conduct quarterly random medication administration observations to determine that the aides are administering medications correctly and in compliance with these rules and report any issues to the assisted living community administration for resolution.
- (d) **Quarterly Drug Regimen Reviews.** Secure the services of a licensed pharmacist to perform all of the following duties:
1. Conduct quarterly reviews of the drug regimen for each resident of the assisted living community and report any irregularities to the assisted living community administration.
 2. Remove for proper disposal any drugs that are expired, discontinued or in a deteriorated condition or where the resident for whom such drugs were ordered is no longer a resident.
 3. Establish or review policies and procedures for safe and effective drug therapy, distribution, use and control.
 4. Monitor compliance with established policies and procedures for medication handling and storage.
- (e) **Authorized Tasks for Certified Medication Aides.** An assisted living community may allow a certified medication aide to do only the following tasks related the administration of medications utilizing only unit or multidose packaging of medications:
1. Administer physician ordered oral, via a feeding tube, ophthalmic, topical, otic, nasal, vaginal and rectal medications.
 2. Administer insulin, epinephrine, and B12 pursuant to physician direction and protocol.
 3. Administer medications via a metered dose inhaler.
 4. Conduct finger stick blood glucose testing following established protocol.
 5. Administer a commercially prepared disposable enema ordered by a physician.
 6. Assist residents in the supervision of self-administration of medications.
 7. Administer liquid morphine to a resident of the community who is the patient of a

licensed hospice, pursuant to a hospice physician's written order that contains specific instructions for indication, dosage, frequency and route of administration.

- (f) **Annual Competency Reviews.** Complete comprehensive clinical skills competency reviews for each certified medication aide utilizing the skills competency checklist at least, annually after hiring to determine that the aides continue to have the necessary skills to perform the medication tasks assigned competently. Such skills competency checklists must be administered by Georgia-licensed registered nurses, pharmacists or physicians, who indicate in writing that the tasks observed are being performed competently.
 - (g) **Proper Notice of Separation for Cause.** Ensure that where a medication aide is terminated for cause relating to the performance of medication aide tasks, the aide is provided with the following:
 - 1. a separation notice that clearly describes the facts that support the termination for cause;
 - 2. written notice that being terminated for cause related to the administration of medications, if not successfully appealed through a hearing on right to unemployment benefits will result in the loss of good standing on the Georgia Certified Medication Aide Registry; and
 - 3. the loss of good standing on the Certified Medication Aide Registry will make the aide ineligible for hiring as a certified medication aide by another assisted living community.
 - (h) **Registry Notification.** Submit to the Georgia Certified Medication Aide Registry a copy of the Separation Notice for the certified medication aide only if the separation related specifically to the performance of medication aide tasks and the termination for cause has either been finally upheld by the Department of Labor or the time for appealing the Separation Notice has expired.
- (6) **Communities Conducting Certified Medication Aide Training.** A community choosing to provide a certified medication aide training program must do all of the following:
- (a) Utilize the state-approved medication aide training program ensuring that the training is administered by a Georgia-licensed registered nurse, pharmacist, or physician.
 - (b) Require the aide to demonstrate the requisite clinical skills to serve as a medication aide before a Georgia-licensed registered nurse, pharmacist or physician utilizing the standardized medication administration checklist developed by the Department.
 - (c) Prepare the aide to take the written competency examination to become a certified medication aide.
 - (d) Verify that the aide is in good standing on the Georgia certified nurse aide registry.
 - (e) Provide information to the aide on the registration and locations for taking the written competency examination.

- (f) Provide the documentation to the Georgia Certified Medication Aide Registry that is necessary to complete the application for placement of the aide's name on the Georgia Certified Medication Aide Registry.
 - (g) Not permit the aide to administer medications independently unless the aide is listed on the Georgia certified medication aide registry in good standing.
- (7) **Basic Medication Training for Staff Assisting with Self-Administration.** The assisted living community must provide and document medication training for the unlicensed staff who are not certified medication aides but who are providing assistance with or supervision of self-administration of medications to capable residents. The medication training must be conducted with an appropriate curriculum for providing medication assistance and include at least the following topics:
- (a) the assisted living community's medication policy and procedures, including actions to take if concerns regarding resident's capacity to self-administer medications are identified;
 - (b) how to read prescription labels including common abbreviations;
 - (c) providing the right medication to the right resident at the right time in the right amount and the right way including how to measure various medications;
 - (d) actions to take when concerns regarding medications are identified;
 - (e) infection control procedures relative to providing assistance with medications;
 - (f) proper medication storage and disposal;
 - (g) recognition of side effects and adverse reactions for the specific medications;
 - (h) understanding the common classifications of medications, typical side effects and adverse reactions and medications for which unlicensed staff may never provide assistance with or supervision of self-administration; and
 - (i) proper documentation and record keeping using the Medication Assistance Record.
- (8) **Medication Skills Competency Determinations.** Unlicensed staff who are not certified as medication aides providing assistance with or supervision of self-administered medications must demonstrate when hired and at least, annually thereafter, the necessary skills to perform the medication tasks assigned competently by completing skills competency checklists before appropriately trained community staff.
- (9) **Maintaining Records on Medication Assistance and Administration.** Where the assisted living community either provides assistance with, or supervision of self-administered medications or administers medications to residents, the community must maintain a daily Medication Assistance Record (MAR) for each resident who receives assistance or administration. The MAR must include the name of the specific resident, any known allergies, the name and telephone number of the resident's health care provider, the name, strength and specific directions including key 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). The staff providing the assistance or administration of medications must update the MAR each time the medication is offered or taken.

- (a) The assisted living community must make medication information concerning the descriptions of medication, dosing, side effects, adverse reactions and contraindications for each medication being administered to the residents immediately available for reference by staff providing medication assistance or administration.
 - (b) Staff of the assisted living community providing assistance with or administration of medications must document in the resident's record any unusual reactions to the medications and provide such information to the resident, the resident's representative and the health care provider as appropriate.
 - (c) For any administration of liquid morphine by a certified medication aide, staff shall observe and document the following in the resident's record:
 1. the resident's need for PRN liquid morphine, including but not limited to verbalizations of pain, groaning, grimacing or restlessness;
 2. the date, time and location of the initial dose administered by a licensed hospice health care professional;
 3. the dosage, time and route of administration for the morphine administered in the community;
 4. the training provided by the licensed hospice; and
 5. information regarding the special circumstances under which the hospice was unavailable to administer the medication.
- (10) **Orders Required for All Medications.** An assisted living community must not allow its staff to assist with, provide supervision of self-administered medications or administer any medications, including over-the-counter medications, unless there is a physician's order specifying clear instructions for its use on file for the resident.
- (11) **Timely Management of Medication Procurement.** Where the assisted living community procures medications on behalf of the residents, the community 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 community must notify the physician of the unavailability of the prescription and request direction. Refills of prescribed medications must be obtained timely so that there is no interruption in the routine dosing. Where the assisted living community is provided with a new medication for the resident, the MAR must be modified to reflect the addition of the new medication within 48 hours or sooner if the prescribing physician indicates that the medication change must be made immediately.
- (12) **Storage and Disposal of Medications.** Medications must be stored securely and inventoried appropriately to prevent loss and unauthorized use. Medications must be stored under lock and key at all times whether kept by a resident or kept by the assisted living community for the

resident, unless the medication is required to be kept by the resident on his or her person or staff member in close attendance due to the need for physician-prescribed frequent or emergency use. 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 community to account for all inventory.

- (a) Duplicate keys for all medication storage containers must be available on site for appropriate use.
- (b) Medications must be kept in original containers with original labels intact.
- (c) Medications must be properly labeled in separate unit or multi-unit dose packaging and handled in accordance with physician's instructions, and laws and regulations applicable to the medications.
- (d) The assisted living community must ensure that it properly disposes of unused medications using the current U.S. Food and Drug Administration or U.S. Environmental Protection Agency guidelines for the specific medications.
- (e) The supply of liquid morphine on site shall be limited to 50 ml for each hospice patient in the community for which there is a physician's order for such medication.

Rule 111-8-63-.21 Nutrition and Food Preparation

- (1) **Regularly Scheduled Meals.** The assisted living community must provide a minimum of three regularly scheduled well-balanced meals per day seven days a week which meet the nutritional needs of residents, and must provide therapeutic diets as ordered by the residents' healthcare providers for residents that require special diets. There must be no more than fourteen hours elapsing between the scheduled evening and morning meals.
- (2) **Nutritious Meals.** Meals must meet the general requirements for nutrition adjusted for age, sex and activity, currently found in the Recommended Daily Diet Allowances, Food and Nutrition Board, National Academy of Sciences.
- (3) **Snacks.** Food for at least one nutritious snack must be available and offered each day in addition to the regularly scheduled meals. Snacks are not considered to be meals for the purposes of calculating the time between meals.
- (4) **Wholesome Food.** Food received or used in an assisted living community must be clean, wholesome, free from spoilage, adulteration, and misbranding, and safe for human consumption.
- (5) **Proper Handling of Food.** All foods while being stored, prepared and served must be protected from spoilage and contamination and be safe for human consumption. At a minimum to protect from spoilage and contamination, the assisted living community must do all of the following:
 - (a) Store perishable foods, such as but not limited to meat, fish, eggs, dairy products, juices at temperatures that will minimize spoilage, i.e. at or below 41 degrees F.
 - (b) Thaw frozen foods properly, i.e. in the refrigerator or under cold running water with an unplugged sink.

- (c) Provide hot and cold running water and sanitizing agents and ensure that they are used appropriately in the kitchen to clean and sanitize food, hands and utensils as required for safe food preparation.
 - (d) Prevent cross-contamination of foods via hands, cutting boards or utensils during preparation.
 - (e) Ensure that hot foods leave the kitchen (pot, steam table, etc.) for serving at or above 140 degrees F. and that cold foods leave the kitchen for serving at or below 41 degrees F.
- (6) **Duties of Food Service Manager.** The person designated by the assisted living community as being responsible for managing the preparation of meals for the residents must enforce safe food handling practices which address basic food safety, hygiene, cross contamination, time and temperature requirements and sanitation with staff and residents.
- (7) **Emergency Food Supply.** A 3-day supply of non-perishable dry or canned foods and water, must be on hand at all times in the assisted living community for emergency use. The quantity of food required to be stored must be based on the usual resident census. The food must be kept in sealed containers which are labeled and dated. The food must be rotated in accordance with shelf life to ensure safety and palatability. Water sufficient for drinking and food preparation must also be stored.
- (8) **Properly Furnished Food Areas.** Kitchen and dining areas must be properly equipped with appropriate cabinets, drawers, holders and shelves or racks for storage of necessary equipment and utensils. These rooms must be kept clean and disinfected at least daily unless more frequent sanitization is required to prevent the spread of infection or food borne illnesses.
- (9) **Food Service Permit Required.** An assisted living community must either possess a valid food service permit issued through the authority of the Department of Public Health pursuant to Chapter 290-5-14 or a copy of the valid food service permit of the caterer' who provides meals to the community.
- (10) **Menu Requirements.** Menus to be served in assisted living residences must be dated and planned at least one week in advance for both regular and therapeutic diets. Residents must be encouraged to participate in menu planning. Planned menus must be conspicuously posted or easily available to residents. Regular and therapeutic menus as served, with substitutions noted before the meal is served, must be kept on file in the assisted living community for 30 days.
- (11) **Food Safety Reports.** The assisted living community must retain copies of food safety inspection reports required by law which were issued during the year preceding the most recent inspection. The most recent food service inspection report must be posted in the assisted living community.
- (12) **Catered Food Service.** When the assisted living community uses a catered food service (food service establishment), the assisted living community must ensure that the service is properly licensed, provides meals in accordance with these rules, has a satisfactory record of compliance with food safety requirements and properly transports and stores food at time of delivery to maintain food safety.
- (13) **Catering Records.** An assisted living community utilizing a catered food service must maintain copies of the current contract between the assisted living community and the food service establishment agreeing to provide food service in the assisted living community, the certificate or

license authorizing the operation of the food service establishment issued by the county health agency and the most recent food safety inspection reports.

Rule 111-8-63-.22 Temperature Control

- (1) The temperature throughout the assisted living community must be maintained by an adequate central heating and cooling system or its equivalent at ranges which are consistent with individual health needs of residents and provides a comfortable environment for the residents.
- (2) Temperatures in the assisted living community must not fall below 62 degrees F during sleeping hours or above 85 degrees F during the day. Mechanical cooling devices shall be made available for use in those areas of the building used by residents when inside temperatures exceed 80 degrees F.
- (3) Where a power outage or mechanical failure impacting the ability of the assisted living community to maintain these temperature ranges occurs, the assisted living community must take immediate action to provide for the health and safety of the residents, including but not limited to, arranging immediately for a service call, providing additional blankets or fans or utilizing an emergency power generator in accordance with the assisted living community's emergency preparedness plan.

Rule 111-8-63-.23 Infection Control, Sanitation and

- (1) The assisted living community must have an effective infection control program which includes, at a minimum, the following:
 - (a) training provided to staff on effective measures for minimizing the spread of infections and food borne illnesses;
 - (b) responding to disease outbreaks appropriately and participating in infection control investigations;
 - (c) staff demonstrating their understanding and use of proper infection control practices in their delivery of care to the residents; and
 - (d) enforcing work and return to work policies to minimize the spread of infection and illnesses.
 - (e) implementing [the additional infection control requirements set forth in the Rules and Regulations for Disaster Preparedness Plans, Chapter 111-8-16, regarding pandemic plans, supplies and policies and procedures.](#)
- (2) The assisted living community must have an adequate supply of sanitizing and cleaning agents, e.g.. effective hand hygiene products, hand soap, laundry soap, household disinfectants and other cleaning materials, available and used in the assisted living community to minimize the spread of infections.
- (3) Toilet tissue, soap, hot and cold running water and clean towels must be available for use wherever commodes are located.
- (4) The assisted living community must have a supply of first-aid materials available for use. This supply must include, at a minimum, gloves, band aids, thermometer, tape, gauze, and an antiseptic.
- (5) The storage and disposal of bio-medical and hazardous wastes must comply with applicable federal, state, and local rules and/or standards.

- (6) Solid waste which is not disposed of by mechanical means must be stored in vermin-proof, leak-proof, nonabsorbent containers with close-fitting covers until removed. Waste must be removed from the kitchen at least daily and from the premises at least weekly.
- (7) An insect, rodent or pest control program must be maintained and conducted in a manner which continually protects the health of residents.
- (8) Residents' private living spaces or bedrooms must be thoroughly cleaned and sanitized after residents move out of the rooms.
- (9) The assisted living community must clean the residents' private living spaces periodically and as needed to ensure that the space does not pose a health hazard.
- (10) The assisted living community must notify residents of infectious disease outbreaks or incidents as specified in the Rules and Regulations for Disaster Preparedness Plans, Chapter 111-8-16.

Rule 111-8-63-.24 Residents' Files

- (1) An individual resident file must be maintained by the administrator or on-site manager for each resident in the assisted living community. Personal information must be treated as confidential and must not be disclosed except to the resident and his or her representative or legal surrogate, if any, an authorized agent of the Department, and others to whom written authorization is given by the resident or his representative or legal surrogate, if any. The resident file must be made available for inspection and/or copying to the resident or the resident's representative or legal surrogate, if any, and Department representatives, upon request.
- (2) Each resident's file must include the following information:
 - (a) identifying information including name, social security number, veteran status, age, sex and previous address;
 - (b) name, address and telephone number of next of kin, legal guardian and/ or representative or legal surrogate, if any, or representative payee and any court order or written document designating the resident's representative or legal surrogate, if any;
 - (c) name, address and telephone number of any person or agency providing additional services to the resident. This information must include the name of the agency personnel primarily responsible where provided to the community by the person or agency, (i.e., the caseworker, case manager, or therapist);
 - (d) an admission and discharge log to include the date of admission, prior residence of resident, referral source, agency contact and telephone number of referral source date of discharge, facility or residence discharged to and telephone number;
 - (e) all individual written care plans required by the serules and the rules for proxy caregivers, Chapter 111-8-100 if applicable;
 - (f) the name, address and telephone number of a physician, hospital and pharmacy of the resident's choice;
 - (g) a record of all monetary transactions conducted on behalf of the resident with itemized

receipts of all disbursements and deposits;

- (h) a record of all monies and other valuable entrusted to the assisted living community for safe keeping; a receipt for same shall be provided to the resident or representative or legal surrogate, if any, at the time of admission and at any time there after when the resident acquires additional property and wishes to entrust such property to the assisted living community for safe keeping;
- (i) health information including all health appraisals, diagnoses, prescribed diets, medications, and physician's instructions;
- (j) an inventory of valuable personal items brought to the assisted living community for use by the resident to be updated at anytime after admission if a resident or representative or legal surrogate, if any, submits to the assisted living community a new inventory of the resident's personal items;
- (k) a signed copy of the Resident's Rights form;
- (l) a signed copy of the admission agreement;
- (m) any power of attorney or document issued by a court or by the Social Security Administration or any other governmental authority which designates another person as responsible for management of the resident's finances;
- (n) a copy of a living will and/or durable power of attorney for healthcare if executed prior to 2007 or a copy of an executed Georgia advance directive for healthcare, if any, the forms for which must be made available at the time of admission and remain available to the resident upon request;
- (o) any signed medical orders impacting end of life care, e.g. do not resuscitate, physician's orders for life sustaining treatment, etc.
- (p) a copy of the resident's written waiver, if any, of the personal needs allowance charge pursuant to the provisions of Rule 111-8-63-.25(p)1;
- (q) a copy of any findings from a search of the National Sex Offender Registry maintained through the Department of Justice, etc.; and
- (r) any informed written consents signed by the resident or resident's representative, designating and delegating to any trained proxy caregiver, whether employed by the assisted living community or not, the performance of identified health maintenance activities.
- (s) evidence the resident has received educational information on influenza disease no later than September 1 of each year. Such information shall include, but is not limited to, the risks associated with influenza disease; the availability, effectiveness, and known contraindications of the influenza immunization; causes and symptoms of influenza; and the means in which it is spread. Provision of the appropriate and current Vaccine Information Statement as provided by the Centers for Disease Control and Prevention shall be deemed to comply with this regulation.

- (3) The following information may be given voluntarily by the resident, guardian, or representative or legal surrogate, if any, but may not be required of the resident:
 - (a) religious preference, church membership, name and telephone number of minister, priest or rabbi, if applicable; and
 - (b) information about insurance policies and prearranged funeral and burial provisions, if any.
- (4) Resident files must be maintained by the assisted living community for a period of three years after a resident's discharge.

Rule 111-8-63-.25 Supporting Residents Rights and Obtaining Feedback

- (1) The assisted living community must operate in a manner that respects the personal dignity of the residents and the human rights of the residents which rights cannot be waived, except as provided in these rules by the resident or the resident's representative or legal surrogate.
 - (a) The assisted living community must provide to each resident care and services which are adequate, appropriate, and in compliance with state law and regulations.
 - (b) The assisted living community, its agents or employees must not punish or harass a resident because of the resident's efforts to enforce his or her rights.
 - (c) The assisted living community must operate in a manner that protects each resident's rights to do all of the following:
 - 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 resident's interests, and assessments;
 - 3. interact with members of the community both inside and outside the assisted living community and to participate fully in the life of the community; and
 - 4. make choices about aspects of his or her life in the assisted living community that are significant to the resident.
 - (d) Each resident must have the right to enjoy privacy in his or her room. Assisted living community staff and others must respect this right by knocking on the door before entering the resident's room.
 - (e) Each resident must have the right to associate and communicate freely and privately with persons and groups of the resident's choice without being censored by staff.
 - (f) If a resident is married and the spouse is also a resident in the assisted living community, the residents must be permitted to share a room unless they request otherwise, subject to the limitation that no more than two residents may share a bedroom or private living space.
 - (g) Each resident must be treated with dignity, kindness, consideration and respect and be given privacy in the provision of assisted living care. Each resident must be accorded privacy and freedom to use the bathroom(s) at all hours.

- (h) No religious belief or practice must be imposed upon any resident. Residents must be free to practice their religious beliefs as they choose. Each resident must have the right to participate in social, religious, and community activities that do not interfere with the rights of other residents.
- (i) Each resident must have the right to be free from mental, verbal, sexual and physical abuse, neglect and exploitation.
- (j) Each resident has the right to be free from actual or threatened physical or chemical restraints and the right to be free from isolation, corporal, or unusual punishment including interference with the daily functions of living, such as eating or sleeping.
- (k) Each resident must have 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 resident's use of his or her property would interfere with the safety or health of other residents. Each resident must have the right to reasonable safeguards for the protection and security of his personal property and possessions brought into the assisted living community.
- (l) Each resident's mail must be delivered unopened to the resident on the day it is delivered to the assisted living community. The assisted living community must not permit any resident's outgoing correspondence to be opened or tampered with prior to being mailed or otherwise delivered.
- (m) Each resident must have access to a telephone made available by the assisted living community and the right to have a private telephone, at the resident's own expense. Telephones must be placed in areas to insure privacy without denying accessibility.
- (n) Each assisted living community must permit immediate access to residents by others who are visiting with the consent of the resident. Residents have the right to have visitors at mutually agreed upon hours. Once the hours are agreed upon, no prior notice is necessary. Each resident also has the right to refuse to see visitors or terminate any visit.
- (o) Each resident must have the right to manage his own financial affairs, including the right to keep and spend his own money unless that resident has been adjudicated incompetent by a court of competent jurisdiction. Each resident must have the right to be free from coercion to assign or transfer to the assisted living community money, valuables, benefits, property or anything of value other than payment for services rendered by the assisted living community.
- (p) Each resident must have the right to a personal needs allowance for the free use of the resident in the amount of twenty dollars per week to be distributed by the administrator, on-site manager, or a responsible staff person in the assisted living community. The following conditions must be met regarding the personal needs allowance:
 1. The personal needs allowance must be included as a charge for services to each resident's account which a resident or a resident's representative or legal surrogate, if any, may waive by signing a written waiver upon admission or anytime thereafter. No allowance charge may be assessed where a resident or a resident's representative or legal surrogate, if any, has signed a written waiver of the personal needs allowance. Such a waiver must be kept in a resident's file.

2. Where no waiver has been signed, the personal needs allowance must be tendered to each resident, in cash, on the same day each week.
 3. The personal needs allowance must not be intended or needed for purchasing necessary goods such as toilet paper and light bulbs which the assisted living community ordinarily supplies, and shall in no way relieve the assisted living community of the obligation to insure that such necessary goods are available to the resident.
- (q) Each resident must have the right to receive or reject medical care, dental care, or other services by those authorized and/or licensed to provide such medical care except as required by law or regulations.
- (r) Each resident must have the right to choose and retain the services of a personal physician and any other health care professional or service. No assisted living community is permitted to interfere with the resident's right to receive from the resident's attending physician complete and current information concerning the resident's diagnosis, treatment and prognosis. Each resident and his or her representative or legal surrogate, if any, must have the right to be fully informed about care provided in the community and of any changes in that care and the right of access to all information in medical records retained by the community.
- (s) Each resident must have the right to fully participate in the planning of his or her care and to question the need for changes in the plan of care. Case discussion, consultation and examination must be confidential and conducted discreetly. A person who is not directly involved in the resident's care may be present when care is being rendered only if he or she has the resident's permission. The resident's duly appointed legal surrogate(s) shall have the authority to act on the resident's behalf as established by written applicable federal and state of Georgia law, and shall be entitled to receive information relevant to the exercise of his or her authority.
- (t) Each resident, representative or legal surrogate must have the right to inspect his or her records on request. Each resident must have the right to make a copy of all records pertaining to the resident on the premises or obtain a copy from the community. The community may charge a fee for providing photocopies of the records, but such charge may not exceed what is charged by the local library for photocopies. Each resident has the right to confidential treatment of personal information in the resident file.
- (u) Each resident who has not been committed to the assisted living community 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 30 days written notification to the assisted living community in conformance with the assisted living community's policies and procedures.
- (v) Each resident must have the right to access to the State Long-Term Care Ombudsman Program O.C.G.A. § 31-8-50*et seq.* and the name, address, and telephone number of the ombudsman assigned to the assisted living community must be posted in a common area of the assisted living community.
- (w) Residents must have the right to form a Resident Council and have meetings in the assisted

living community outside the presence of owners, management or staff members of the assisted living community and the assisted living community must provide assistance in coordinating the meetings of the Resident Council.

- (2) Each resident must be provided, at the time of admission to the assisted living community, with a copy of the Resident's Bill of Rights, as provided in Rule 111-8-63.25. The Bill of Rights must include provisions for protecting the personal and civil rights of each resident. In the event that a resident is unable to read the Resident's Bill of Rights the manager must take steps to assure communication of its contents to the resident.
- (3) An assisted living community must comply with the provisions of the "Remedies for Residents of Personal Care Homes Act" as outlined in O.C.G.A. § 31-8-131*et seq.*
- (4) The assisted living community must ensure that residents and their representatives, where applicable, are given opportunities to provide feedback in writing and otherwise on their satisfaction with the services being provided by the assisted living community with respect to at least the following areas: quality of care, food, activities, cleanliness of the assisted living community and helpfulness of the staff.
- (5) The assisted living community must retain a copy of the resident's record for two years following the date of discharge.
- (6) The assisted living community must maintain documentation of the feedback it receives and its response to the feedback.

Rule 111-8-63-.26 Procedures for Change in Resident's Condition

- (1) In case of an accident or sudden adverse change in a resident's condition or adjustment, an assisted living community must immediately take the actions appropriate to the specific circumstances to address the needs of the resident, including notifying the representative or legal surrogate, if any. The assisted living community must retain a record of all such adverse changes and the assisted living community's response in the resident's files.
- (2) Where the sudden change in the resident's condition causes the resident to become unresponsive, the assisted living community must immediately take one of the following actions:
 - (a) If the resident is enrolled in a licensed hospice and has a specific hospice plan of care, the assisted living community must contact the hospice for directions regarding the care to be provided. If the hospice staff is not available to provide direction, then the assisted living community must immediately contact the duly-appointed health care agent for direction. If no health care agent has been appointed or is not available, then the assisted living community must immediately contact emergency medical services to arrange for emergency transport and must initiate cardiopulmonary resuscitation if no DNR order has been written.
 - (b) If the resident has a valid Do Not Resuscitate (DNR) order readily available, the caregiver may effectuate the DNR order if done in good faith.
 - (c) If the resident has appointed a health care agent in a living will, durable power of attorney for health care or an advance directive for health care which complies with the requirements of O.C.G.A. § 31-32-1*et seq.*, then the assisted living community must immediately contact the

health care agent for directions regarding the care to be provided. Where the health care agent is not immediately available and there is no valid DNR order for the resident, the assisted living community must immediately contact emergency medical services to arrange for emergency transport and must initiate cardiopulmonary resuscitation.

- (d) If the resident is not enrolled in hospice, and does not have either a DNR or an advance directive, then the staff of the assisted living community must immediately contact emergency medical services to arrange for emergency transport and must initiate cardiopulmonary resuscitation where it is not obvious from physical observation of the resident's body (e.g. body is stiff, cool to the touch, blue or grayish in color, etc.) that such efforts would be futile and there is not a physician, or authorized registered nurse or physician's assistant on site to assess and provide other direction.
- (2) The staff must have ready access to phone numbers for emergency medical personnel and the resident's file or appropriate emergency medical and contact information for each resident, both at the assisted living community and when residents are being transported by the assisted living community for any reason.
- (3) Immediate investigation of the cause of an accident, injury or death involving a resident must be initiated by the administrator or on-site manager of the assisted living community and a report made to the representative or legal surrogate, if any, with a copy of the report maintained in the resident's file and in a central file for quality assurance review.

Rule 111-8-63-.27 Death of a Resident

- (1) Should a resident die while in the assisted living community, the administrator, on-site manager or designated staff must immediately notify the resident's physician, the next of kin, and the representative or legal surrogate, if any, and appropriate law enforcement authorities where the law so requires, such as in the case of a sudden or unexpected death.
- (2) Upon death of the resident, the assisted living community must refund to the representative or legal surrogate, if any, any security deposit made to the assisted living community by or on behalf of the resident in compliance with O.C.G.A. § 44-7-30*et seq.*

Rule 111-8-63-.28 Immediate Transfers of Residents

- (1) The administrator or on-site manager of the assisted living community must initiate an immediate transfer to an appropriate setting if the resident develops a physical or mental condition requiring continuous medical care or nursing care.
- (2) Where immediate transfer is required to be made, the administrator or on-site manager shall make arrangements for transfer in accordance with the admission agreement and must transfer the resident to an appropriate setting where the resident's needs can be met. Prior to making such transfer, the administrator or on-site manager shall:
 - (a) inform the resident and representative or legal surrogate, if any, of the reason for the immediate transfer;
 - (b) inquire as to any preference of the resident and representative or legal surrogate, if any, regarding the appropriate setting to which the resident is to be transferred;

- (c) inform the representative or legal surrogate, if any, of the resident's choice regarding such transfer;
 - (d) inform the resident and the representative or legal surrogate, if any, of the place to which the resident is to be discharged;
 - (e) provide a copy of the resident file to the receiving setting within 24 hours of transfer; and
 - (f) document in the resident's file the following:
 - 1. the reason for the immediate transfer;
 - 2. the fact that the resident and the representative or legal surrogate, if anywhere informed pursuant to this paragraph; and
 - 3. appropriate location and contact information regarding the place to which the resident is to be transferred or discharged.
- (3) Upon immediate transfer of the resident, the assisted living community must refund to the resident or representative or legal surrogate, if any, any security deposit made to the assisted living community by or on behalf of the resident in compliance with O.C.G.A. § 44-7-30*et seq.*

Rule 111-8-63-.29 Discharge or Transfer of Residents

- (1) Each admission agreement shall include a written procedure for handling the discharge and transfer of the resident. The administrator or on-site manager must contact the representative or legal surrogate, if any, when there is need to discharge or transfer of a resident. The community must provide 30 days' written notice of its intent to discharge or transfer the resident unless an immediate transfer is required. The written notice must be issued to both the resident and the representative or legal surrogate, if any.
- (2) In all cases except those requiring immediate transfer pursuant to Rule 111-8-63-.28, residents whose needs cannot be met by the assisted living community or who no longer choose to live in the assisted living community must be discharged or transferred to an appropriate facility or other appropriate setting in accordance with the resident's, representative or legal surrogate's wishes based on discharge and transfer procedures entered into at the time of admission. Where there is no representative or legal surrogate or the representative or legal surrogate is unwilling to act to consent to the discharge or transfer, the administrator or on-site manager must petition the probate court in the county where the assisted living community is located for an order authorizing the discharge or transfer. The transferring assisted living community must provide a copy of the resident file to the receiving facility prior to or at the time of transfer.
- (3) Where the Department has reason to believe that a resident is receiving or requires continuous medical or nursing care, other than as permitted by a certified medication aide, the Department may require the assisted living community to discharge the resident. However, the provision of medical, nursing or health services required by the resident on a periodic basis or for a short-term illness, where such services are not provided by the assisted living community is permissible.
- (4) Upon discharge or transfer of the resident, the assisted living community must refund to the resident or representative or legal surrogate, if any, any security deposit made to the assisted living

community by or on behalf of the resident in compliance with O.C.G.A. § 44-7-30*et seq.*

Rule 111-8-63-.30 Reports to the Department

- (1) The staff of the assisted living community must call the local police department to report the elopement of any resident from the assisted living community within 30 minutes of the staff receiving actual knowledge that such person is missing from the assisted living community in accordance with the Mattie's Call Act and the requirements set forth in O.C.G.A. § 35-3-170*et seq.* The assisted living community shall also report the initiation and discontinuation of a Mattie's call to the Department within thirty (30) minutes of communications with local law enforcement authorities having occurred.
- (2) Whenever a serious incident involving a resident occurs, the assisted living community must report in a format acceptable to the Department either within 24 hours after the incident has occurred, or the assisted living community has reasonable cause to believe that a reportable incident involving a resident has occurred. The serious incidents that must be reported to the Department include the following:
 - (a) any accidental or unanticipated death not directly related to the natural course of the resident's underlying medical condition;
 - (b) any serious injury to a resident that requires medical attention;
 - (c) any rape, assault, any battery on a resident, or any abuse, neglect, or exploitation of a Resident in accordance with the Long Term Care Resident Abuse Reporting Act O.C.G.A. § 31-8-80*et seq.*;
 - (d) an external disaster or other emergency situation that affects the continued safe operation of the residence; and
 - (e) when an owner, director or employee acquires a criminal record as defined in these rules.
- (3) The incident report required by these rules must be filed with the Department, in confidence and must include at least:
 - (a) the name of the assisted living community and the name of the administrator or site manager;
 - (b) the date of the incident and the date the assisted living community 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 assisted living community to ensure against the replication of the incident.
- (4) Where the Department determines that a rule violation related to the incident has occurred, the Department will initiate a separate 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 assisted living community or an independent source is subject to disclosure in accordance with applicable laws.

Rule 111-8-63-.31 Deemed Status

The Department may accept the certification or accreditation of an assisted living community by an accreditation body or certifying authority recognized and approved by the Department provided that certification or accreditation constitutes compliance with standards that are substantially equivalent to these rules. Nothing herein shall prohibit any departmental inspection to determine compliance with licensure rules.

Rule 111-8-63-.32 Variances and Waivers

- (1) The Department may, in its discretion, grant variances and waivers of specific rules upon application or petition filed on forms made available by the Department. The Department may establish conditions which must be met by the assisted living community in order to operate under the variance or waiver granted.
 - (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 residents exist and will be met in lieu of the exact requirements of the rule or regulations in question. The Department may require additional documentation by the assisted living community to support its application for a variance or waiver.
 - (b) **Waiver.** The Department may dispense entirely with the enforcement of a rule or regulation by granting a waiver 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, care, and rights of the residents.
 - (c) **Experimental Variance or Waiver.** The Department may grant variances and waivers 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 without compromising health, safety, residents' rights, or other relevant standards.
- (2) The decision of the Department regarding either granting or denying the application of the governing body of the assisted living community for a waiver or variance is not subject to further administrative review. The governing body may file a petition for judicial review in the appropriate superior court.
- (3) Where the Department has denied the application for a waiver or variance in writing, the Department will not consider a subsequent application for the same waiver or variance as a new application unless the applicant includes new evidence of a substantial change in the circumstances which formed the basis for the initial request.

Rule 111-8-63-.33 Enforcement of Licensing Requirements

An assisted living community that fails to comply with licensing requirements contained in these rules, the Rules and Regulations for the Use of Proxy Caregivers, Chapter 111-8-100 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. § 31-2-11 and the Rules and Regulations for General Licensing and Enforcement Requirements, Chapter 111-8-25.

Rule 111-8-63-.34 Severability

In the event that any rule, sentence, clause or phrase of any of the rules and regulations may be construed by any court of competent jurisdiction to be invalid, illegal, unconstitutional, or otherwise unenforceable, such determination or adjudication shall in no manner affect the remaining rules or portions thereof. The remaining rules or portions thereof shall remain in full force and effect as if such rule or portions thereof so determined, declared or adjudicated invalid or unconstitutional were not originally part of these rules.