

## **SYNOPSIS**

### **Rule 111-2-2 Health Planning Certificate of Need**

#### ***Rule 111-2-2-.31 Specific Review Considerations for Personal Care Homes***

### **STATEMENT OF PURPOSE AND MAIN FEATURES OF PROPOSED RULE**

The purpose of this proposed amendment in totality is to modify existing regulations in light of changes in the Certificate of Need statute, O.C.G.A. § 31-6 et seq., due to the passage of Senate Bill (SB) 433 in the 2008 Georgia General Assembly. SB 433 necessitates extensive revision to the existing administrative rules for certificate of need. The revisions are outlined in detail below.

### **DIFFERENCES BETWEEN EXISTING AND PROPOSED RULES**

Various grammatical and punctuation errors and omissions were corrected throughout the existing version of the regulations.

#### **Rule 111-2-2-.31 Specific Review Considerations for Personal Care Homes.**

The definition for "Personal care home" was amended to reflect the new statutory definition which references facilities that are certified as providers of medical assistance for Medicaid purposes.

Authority: O.C.G.A. § 31-6-2(30)

### **111-2-2-.31 Specific Review Considerations for Personal Care Homes.**

(1) **Applicability.** A Certificate of Need for a personal care home will be required prior to the establishment of a new personal care home, of twenty-five beds or more, and the expansion of any personal care home which is or will be twenty-five beds or more.

#### **(2) Definitions.**

(a) "Health planning area" for all personal care homes, means the geographic regions in Georgia defined in the State Health Plan or Component Plan.

(b) "Horizon Year" means the last year of a three-year projection period for need determinations for a personal care home.

(c) "Official State Health Component Plan" means the document related to personal care homes developed by the Department adopted by the State Health Strategies Council, and approved by the Board of Community Health.

(d) "Personal care home" means a residential facility that is certified as a provider of medical assistance for Medicaid purposes pursuant to Article 7 of Chapter 4 of Title 49 having at least 25 beds and providing, for compensation, protective care and oversight of ambulatory, non-related persons who need a monitored environment but who do not have injuries or disabilities which require chronic or convalescent care, including medical, nursing, or intermediate care. Personal care homes include those facilities which monitor daily residents' functioning and location, have the capability for crisis intervention, and provide supervision in areas of nutrition, medication, and provision of transient medical care. Such term does not include:

1. old age residences which are devoted to independent living units with kitchen facilities in which residents have the option of preparing and serving some or all of their own meals; or

2. boarding facilities that do not provide personal care.

#### **(3) Standards.**

(a)1. The numerical need for a new or expanded personal care home in a health planning area shall be determined by a population-based formula which is used to project the number of personal care home beds needed in the horizon year and which is a sum of the following:

(i) a ratio of 18.00 beds per 1,000 projected horizon year Resident population age 65 through 74;

(ii) a ratio of 40.00 beds per 1,000 projected horizon year Resident population age 75 through 84; and

(iii) a ratio of 60.00 beds per 1,000 projected horizon year Resident population age 85 and older.

2. The net numerical unmet need for personal care home beds in each health planning area shall be determined by subtracting the number of existing and approved personal care home beds in the health planning area from the projected number of personal care home beds needed in the horizon year; provided, however, that if the net numerical unmet need exceeds fifty percent (50%) of the current existing and approved beds in the planning area, the net numerical unmet need shall be limited to fifty percent (50%) of the existing and approved beds at the time the calculation is made.

(b) The Department may allow an exception to 111-2-2-.31(3)(a) as follows:

1. to allow expansion of an existing personal care home if actual utilization has exceeded 90 percent average annual occupancy based on number of licensed beds for the two year period immediately preceding application;

2. to allow expansion of an existing personal care home if the applicant has substantial occupancy by out-of-state residents. "Substantial occupancy by out-of-state residents" shall be defined as having at least 33% of the available licensed beds in the personal care home utilized by individuals who resided out side of the State of Georgia immediately prior to moving into the personal care home; or

3. to remedy an atypical barrier to personal care home services based on cost, quality, financial access, or geographic accessibility.

(c) In competing applications, favorable consideration may be given to any applicant for a new or expanded personal care home which historically has provided and/or provides sufficient documentation of plans to provide a higher percentage of un-reimbursed services to indigent and charity residents than requirement by the indigent and charity standard of 111-2-2-.31(3)(j). Favorable consideration also may be given to any applicant for a new or expanded personal care home which historically has provided and/or provides sufficient documentation of plans to provide personal care home residential services at monthly and/or annual rates that are affordable to the greatest number of individuals based on analysis of the national rate for services and the income ranges of individuals at or above age 65 and in the applicant's market area(s).

(d) A new or expanded personal care home shall be approved in a health planning area only if the applicant complies with the following physical standards:

1. the physical plant design and the program design shall support the concept of a non-institutional, home-like setting; and

2. the proposed physical plant design is in compliance with the Rules and licensure standards of the Department of Human Resources and the applicant stipulates that the services required by such Rules and licensure standards will be provided and any services prohibited by such Rules and licensure standards will not be provided and will not be implied to be provided either through advertising or other means; and

3. there shall be a designated area for staff on duty in each personal care home and on each floor in the case of a multistory facility; and

4. the facility has the option of building kitchens or kitchenettes in the living units as long as the facility intends to provide three meals per day to residents. The kitchens or

kitchenettes must comply with the Fire Marshall's and Department of Human Resources' minimum licensure standards; and

5. the facility provides assurance that it will not lease or contract space within the personal care home to an outside entity to provide services that the personal care home would otherwise not be allowed to provide.

(e) An applicant for a new or expanded personal care home must document provision of continuity of care by providing a community linkage plan which demonstrates factors such as, but not limited to, referral arrangements with appropriate services of the healthcare system and working agreements with other related community services assuring continuity of care.

(f) An applicant for a new or expanded personal care home shall provide evidence of intent to comply with all appropriate licensure requirements, resident life safety standards and operational procedures required by the Georgia Department of Human Resources.

(g) An applicant for a new or expanded personal care home shall provide evidence of the intent and ability to recruit, hire, and retain qualified personnel and that such personnel are available in the proposed geographic service area.

(h) An applicant for a new or expanded personal care home shall provide evidence that no existing Georgia personal care home of any size owned and/or operated by the applicant, a related entity or by the applicant's parent organization has had a permit or license revoked, denied or otherwise sanctioned through formal licensure enforcement action by the Georgia Department of Human Resources within the two years immediately preceding application.

(i) An applicant for a new or expanded personal care home shall provide a plan for assuring quality of care which includes, but is not limited to, procedures and plans for staff training and a program to monitor specific quality indicators.

(j) An applicant for a new or expanded personal care home shall foster an environment which assures access to services to individuals by providing a written commitment that un-reimbursed services to residents who are indigent or meet the guidelines of a charity policy of the personal care home will be offered at a standard which meets or exceeds one percent of annual gross revenues for the personal care home after bad debt has been deducted.

(k) An applicant for a new or expanded personal care home shall agree to provide the Department with requested information and statistical data related to the operation and provision of personal care homes and to report that data to the Department in the time frame and format requested.

Authority O.C.G.A. Secs. 31-5A et seq., 31-6 et seq. **History.** Original Rule entitled "Specific Review Considerations for Personal Care Homes" adopted. F. Dec. 16, 2004; eff. Jan. 5, 2005.