



Update on Georgia Laws Governing Assisted Living Communities

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Introduction

- New Assisted Living Licensure Category
- Memory Care Regulations
- Licensing Application Fees
- Proxy Caregiver Regulations

Georgia's New Assisted Living Licensure Category

- Georgia General Assembly passed Senate Bill 178 establishing “Assisted Living Communities” as new licensure category.
 - Signed by Governor Deal on May 4, 2011
- New licensure category allows personal care homes with a minimum of 25 beds to provide additional services that will allow more residents to remain in place for a longer period of time.

Impact of New Assisted Living Licensure Category

- Prior to passage of Senate Bill 178, all assisted living facilities in Georgia were licensed as personal care homes (PCH).
 - PCH is a residential long-term care facility that is permitted to provide residents with housing, food services, and “personal care services,” which include assistance with activities of daily living such as eating, bathing, grooming, dressing and toileting.

Impact of New Assisted Living Licensure Category

- Personal care homes are not considered to be healthcare providers and thus are limited in the services they can provide.
 - Ex. Medication Administration and Ambulation
- Under the “old” regulations, non-ambulatory residents and residents who could not self-administer medication were required to transfer to a different type of facility (typically a nursing home).

Impact of New Assisted Living Licensure Category

- New licensure category will allow Assisted Living Communities to provide extended services that were not permitted in personal care homes.
- More residents will be given the opportunity to age in place.

Statue and Regulations Governing Assisted Living

- O.C.G.A. Title 31, Chapter 7, effective July 1, 2011
- Department of Community Health must promulgate rules and regulations that “establish meaningful distinctions between the levels of care provided by personal care homes, assisted living communities, and nursing homes.”



Assisted Living Community Statute Highlights

- 'Assisted living community' means a personal care home with a minimum of 25 beds that is licensed as an assisted living community pursuant to Code Section 31-7-3.

Assisted Living Community Statute Highlights

- ‘Assisted Living Care’ includes:
 - ✓ Personal services, which includes, but is not limited to, individual assistance with or supervision of self-administered medication and essential activities of daily living such as eating, bathing, grooming, dressing, and toileting;
 - ✓ The administration of medications by a medication aide in accordance with the statutory requirements; and
 - ✓ The provision of assisted self-preservation.
 - Can admit residents who are non-ambulatory, but capable of self-preservation

Assisted Living Community Statute Highlights

- Assisted living community cannot admit or retain individuals in need of continuous medical or nursing care.
 - ✓ Can only provide periodic medical or nursing care as permitted by a medication aide pursuant to the statute.
 - ✓ Certified medication aides who are qualified can be employed to perform the technical aspects of the administration of certain medications (ex. insulin, blood glucose testing under a protocol, metered doses inhalers).
 - ✓ Pharmacist must provide certain oversight.

Distinctions Between PCH and ALC

- The Department of Community Health is developing regulations that establish meaningful distinctions between ALCs, “Adult Care Residences,” PCHs, and nursing homes.
- Town Hall Meeting was held on June 22.
- Georgia ALFA has been involved in the DCH working group that is developing the proposed meaningful distinctions between the licensure categories.
- PCH rules will also be revised soon.

Meaningful Distinctions Grid

Distinctions Between Licensure Categories

	Personal Care Homes	Adult Care Residences (Not official)	Assisted Living Communities	Nursing Homes
Definition	2 or more beds with room, food service, plus one or more personal services	2 or more beds with room, food service, plus one or more personal services	25 or more beds with room, food service, plus one or more personal services	2 or more beds with residents admitted on medical referral with arrangements for continuous medical supervision
Size Distinctions (*Subject to Change)	2 - 6 beds*	7 – 100+ beds*	25-100 + beds*	2+ beds

Meaningful Distinctions Grid

Professional Staffing

	Personal Care Homes	Adult Care Residences	Assisted Living Communities	Nursing Homes
Physician Required	No	No	No	At least one physician and one dentist
Pharmacist Required	No	No	Yes. Quarterly drug regimen reviews, etc.	Yes. Monthly drug regimen reviews, etc.
Nursing Staff Required	No	No	No, but quarterly observation of medication administration by RN or pharmacist where CMAs are used.	Yes. RN full-time and at least one nurse on duty at all times.

Meaningful Distinctions Grid

Professional Staffing

	Personal Care Homes	Adult Care Residences	Assisted Living Communities	Nursing Homes
CNA Required When Non-Licensed Nursing Staff Used	No	No	No	Yes
Certified Medication Aides	No	No	Yes	No
Proxy Caregivers Permitted	Yes	Yes	Yes (but may not be able to administer on behalf of ALC)	No

Meaningful Distinctions Grid

Training

	Personal Care Homes	Adult Care Residences	Assisted Living Communities	Nursing Homes
Basic First Aide	Yes	Yes	Yes	No
CPR Training	Yes	Yes	Yes	No, but safety and emergency training required
Ongoing Training	8 hours/year	16 hours/year	24 hours/year	12 hours/year



Meaningful Distinctions Grid

Staffing Ratios

	Personal Care Homes	Adult Care Residences	Assisted Living Communities	Nursing Homes
Staffing Ratios	At least one staff on site whenever residents are in home, more may be required to meet needs of residents when residents are active	1:15 day 1:25 night	1:15 day 1:25 night	Sufficient staff to provide care for each resident according to each resident's needs. Minimum of 2 hours of direct nursing care per patient.

Meaningful Distinctions Grid

Criminal Record Checks

	Personal Care Homes	Adult Care Residences	Assisted Living Communities	Nursing Homes
Owner	Yes. Fingerprint check.	Yes. Fingerprint check.	Yes. Fingerprint check.	No.
Administrator	Yes. Fingerprint check.	Yes. Fingerprint check.	Yes. Fingerprint check.	Yes. GCIC name check.
Employees	Yes. GCIC name check.	Yes. GCIC name check.	Yes. GCIC name check.	Yes. GCIC name check.

Meaningful Distinctions Grid

Admission Criteria

	Personal Care Homes	Adult Care Residences	Assisted Living Communities	Nursing Homes
Written Admission Agreement	Yes	Yes	Yes	Yes
Able to Ambulate Independently	Yes	Yes	No, assisted self-preservation ok	No
Medical Examination	Yes	Yes	Yes	Yes
Physician Order	No	No	No	Yes

Meaningful Distinctions Grid

Admission Criteria

	Personal Care Homes	Adult Care Residences	Assisted Living Communities	Nursing Homes
Written Plan of Care	No (unless proxy is used or resident is in memory care)	No (unless proxy is used or resident is in memory care)	Yes	Yes
Specialized Memory Care Services	Yes	Yes	Yes	Yes

Meaningful Distinctions Grid

Retention Criteria

	Personal Care Homes	Adult Care Residences	Assisted Living Communities	Nursing Homes
Staff May Assist with Transfer and Ambulation	Yes	Yes	Yes	Yes
Nursing, Medical Care Provided By Staff	No	No	No	Yes

Meaningful Distinctions Grid

Restraint Usage & Room Size

	Personal Care Homes	Adult Care Residences	Assisted Living Communities	Nursing Homes
Restraint Usage	No	No	No	Yes
Room Size	80 square feet per resident unless grandfathered	80 square feet per resident	80 square feet per resident	100 square feet for single rooms, 80 square feet per resident for multi-bed rooms

Meaningful Distinctions Grid

Fire Safety

	Personal Care Homes	Adult Care Residences	Assisted Living Communities	Nursing Homes
Fire Safety Requirements	Able to evacuate in under 3 minutes	Able to evacuate in under 13 minutes or meet requirements for existing health care occupancy. Sprinklers for 7+residents or if required by jurisdiction.	Able to evacuate in under 13 minutes or meet requirements for existing health care occupancy. Sprinklers, visual alarms for hearing impaired.	NFPA 101 (2000), unless wired in smoke detectors in all resident sleeping areas and public areas sprinklered.

Meaningful Distinctions Grid

Food Safety & Menus

	Personal Care Homes	Adult Care Residences	Assisted Living Communities	Nursing Homes
Food Safety	Food service preparer class	Food service manager class	Food service manager class and food service permit	Professional dietician required
Posting of Menus & Activity Calendars	No	Yes	Yes	Yes
Record of Menus Retained	Yes	Yes	Yes	Yes

Meaningful Distinctions Grid

Staff Scheduling Records

	Personal Care Homes	Adult Care Residences	Assisted Living Communities	Nursing Homes
Staff Planning Schedules Posted/ Available	No	Yes	Yes	Yes
Records of Staffing Retained	Yes	Yes	Yes	Yes
Staff Ratios Posted	No	Yes	Yes	Yes

Meaningful Distinctions Grid

Technology

	Personal Care Homes	Adult Care Residences	Assisted Living Communities	Nursing Homes
Call Systems	Optional	Optional	Optional	Required
Web-based monitoring of residents	Optional	Optional	Optional	Optional

Meaningful Distinctions Grid *Marketing*

	Personal Care Homes	Adult Care Residences	Assisted Living Communities	Nursing Homes
Marketing Consistent With Licensing Categories (1 year phase in for existing facilities)	Personal Care Home	Adult Care Residences	Assisted Living Communities	Skilled Nursing Facilities

Highlights From Proposed ALC Regulations

- Medication Administration
 - ✓ Facility must provide administration of medication to residents that cannot / or choose not to participate in the self-administration of medications in accordance with physician orders
 - ✓ Proxy caregivers employed by the facility cannot provide or assist with medication administration
 - ✓ Certified Medication Aides can be employed

Highlights From Proposed ALC Regulations

- Certified Medication Aides
 - ✓ An assisted living community offering medication administration services must employ certified medication aides, at a minimum
 - ✓ Must be 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
 - ✓ Certified Medication Aides must be certified CNAs in good standing

Highlights From Proposed ALC Regulations

- Certified Medication Aides (con't.)
 - ✓ A licensed registered professional nurse or pharmacist must conduct quarterly random medication observations
 - ✓ A licensed pharmacist must conduct a quarterly review of the drug regimen for each resident
 - ✓ The facility must conduct competency reviews annually for each certified medication aide
 - ✓ Specific requirements when terminated for cause – Separation notice submitted to the Georgia registry

Highlights From Proposed ALC Regulations

- Certified Medication Aides: Authorized Tasks
 - ✓ May only utilize unit or multi-dose packaging of medications
 - Administer physician ordered oral, ophthalmic, topical, otic, nasal, vaginal, and rectal medications
 - Administer insulin, epinephrine, and B12 pursuant to physician direction and protocol
 - Administer medications via a metered dose inhaler
 - Conduct finger stick blood glucose testing following established protocol

Highlights From Proposed ALC Regulations

- Certified Medication Aides: Authorized Tasks (con't)
 - Administer a commercially prepared disposable enema ordered by a physician
 - Assists residents in the supervision of self-administration of medications

Highlights From Proposed ALC Regulations

- Resident Profile for Admission
 - ✓ At least 18 years of age
 - ✓ 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
 - ✓ Capable of standing and pivoting with no more than one person providing minimal assistance
 - ✓ Must be able to participate in the social and leisure activities provided

Highlights From Proposed ALC Regulations

- Community Admission Decisions
 - ✓ In addition to the admission profile criteria, the facility must consider the needs of current residents, the assistance with self-preservation they require, and the construction of the building (fire safety, etc.)
 - May require the facility to keep track of the number of residents who are non-ambulatory, but capable of self-preservation

Highlights From Proposed ALC Regulations

- Community Retention Decisions
 - ✓ The facility must require a resident to move out when any of the following occurs:
 - The resident requires continuous medical or nursing care – what about proxy caregivers?
 - The resident's specific care needs cannot be met by staff
 - Facility cannot provide the assistance with self-preservation that the resident requires because of the large number of such residents
 - Facility cannot evacuate all of the current residents within established fire safety standards

Highlights From Proposed ALC Regulations

- Written Plan of Care Required
 - ✓ Develop within 14 days of admission
 - ✓ Must be updated at least annually or more frequently where the needs of the resident change or the resident is assigned to a specialized memory care unit
 - DCH has indicated that quarterly updates for residents in memory care units will no longer be required, but semi-annual or change in condition updates will be required

Highlights From Proposed ALC Regulations

- Proxy Caregiver Services
 - ✓ ALC may choose to allow proxy caregivers to perform certain health maintenance activities that are not covered in the basic assisted living care the ALC is required to provide
 - Must provide employees who are available for designation by a resident to serve as a proxy caregiver; OR
 - Must permit the resident to employ designated proxy caregivers

Highlights From Proposed ALC Regulations

- Proxy Caregiver Services (con't)
 - ✓ If the proxy caregiver is employed by the ALC, they cannot provide assistance with or administer medications
 - Facility employed proxy caregivers can only provide health maintenance activities as specified under the proxy regulations found at Chapter 111-8-100

Working Group / Concerns with Regulations

- Training Hours for Direct Care Workers During First Year of Employment
 - ✓ Initial proposed regulations included 24 hours of continuing education in the first year of employment, with an addition 8 hours of additional training for staff providing hands-on personal services in a specialized memory care unit.
 - ✓ It appears that DCH plans to reduce these hours and require a maximum of 24 hours training in the first year, 16 hours in each subsequent year.

Working Group / Concerns with Regulations

- Additional staff may be required beyond established ratios if the residents require a high level of assistance with daily living or significant assistance with self-preservation activities or watchful oversight to ensure that the residents do not engage in unsafe activities.
 - ✓ This requirement is vague – similar to watchful oversight tag



Working Group / Concerns with Regulations

- Several provisions that indicate that a resident cannot receive or require continuous medical or nursing care
 - ✓ These provisions should address the exception for services provided by proxy caregivers

Working Group / Concerns with Regulations

- **Records on Medication Assistance and Administration**
 - ✓ Current version of the regulations requires substantial information to be included on the MAR for each resident who receives assistance or administration.
 - ✓ Concern that there is not room to include all key side effects and adverse reactions.
 - ✓ Working group is seeking pharmacy input on this issue.

Proposed Regulations: Open Issues

- The ALC application has not been released by DCH
- Timing / delays in ALC licenses being issued is not clear at this point in time
 - ✓ Assume processing will take about 30 days, but DCH has not provided a definitive timeframe

Proposed Rules: Next Steps

- DCH aims to present a draft version of the rules to the DCH Board at their October 13th meeting.
- If DCH staff requests to take the rules through the public rule-making process at that time, the 30 day public comment period will begin.
- The earliest the DCH Board will approve the rules is December 15th.

PCH Memory Care Regulations

- New rules went into effect on December 9, 2009 – Compliance was required by March 2010
- Rules establish basic standards for memory care in all PCHS that serve residents who have cognitive deficits that might cause them to elope.
 - ✓ Significant regulation of PCHs that have “specialized memory care units”
 - ✓ Same or similar requirements will apply to Assisted Living Communities

PCH Memory Care Regulations

- Basic Memory Care Requirements
 - ✓ Apply even if the home does not specialize in dementia or Alzheimer's care or have a specialized memory care unit.
- Specialized Memory Care Unit
 - ✓ Homes that "hold themselves out as providing additional or specialized care to persons with . . . Alzheimer's Disease or other dementia" or charge "rates in excess of those charged other residents because of cognitive deficits which may place the residents at risk of eloping."

PCH Memory Care Regulations

- **Requirements for Homes Providing Memory Care Services (Ga. Comp. R. & Reg. 111-8-62-.19)**
 - ✓ Develop, train and enforce policies and procedures for staff to deal with residents who may elope from the facility.
 - ✓ Utilize appropriate effective safety devices that comply with the specifications set forth in the regulations.
 - ✓ Retain on file at the facility a current picture of any resident at risk of eloping.

PCH Memory Care Regulations

- **Additional Requirements Applicable to Specialized Memory Care Units (Ga. Comp. R. & Reg. 111-8-62-.20)**
 - ✓ Specific physical plant/safety requirements
 - ✓ Written description of the memory care unit which must include items such as the mission, philosophy, services, staffing levels, admissions procedures, fee structure, family support programs, and daily activities, etc.

PCH Memory Care Regulations

- **Additional Requirements Applicable to Specialized Memory Care Units (con't)**
 - ✓ Sufficient numbers of trained staff on duty at all times, including at least one licensed registered nurse who can administer medications to residents. The unit must also have at all times at least one awake staff member who can supervise the residents.
 - Specific orientation requirements.
 - ✓ Within the first six months of employment, staff assigned to the unit must receive specialized training on a variety of topics.

PCH Memory Care Regulations

- **Additional Requirements Applicable to Specialized Memory Care Units (con't)**
 - ✓ Potential residents must present a physician's report of physical examination that was completed within thirty days prior to admission on specialized DCH forms.
 - ✓ A team must develop an individual service plan for each resident within fourteen days of admission and the plan must be updated on a quarterly basis.
 - ✓ Activities that meet individual resident needs and adapt the activities to encourage resident participation at least weekly with at least some therapeutic activities occurring daily.

PCH Licensure Fees

- Effective August 2, 2010 – All licensed or registered programs regulated through the Health Facility Regulation Division must pay licensure activity fees.
- Licensing Payment Coupons can be found on DCH website
- Current Annual Licensure Fees for PCHs:
 - ✓ \$350 for < 25 beds
 - ✓ \$750 for 25 – 50 beds
 - ✓ \$1,500 for > 50 beds

PCH Licensure Fees

- Application Processing Fee, Change in Ownership, Change in Service Level (requiring on site visit), Name Change = \$300
- Follow-up Visit to Periodic Inspection = \$250
- Late Fee: 60 days past due = \$150
- Replace lost permit = \$50
- As of January 31, 2011, DCH may revoke any license if the facility has failed to pay its annual fee within 60 days of receipt of a written invoice.

Proxy Caregiver Regulations

- Rules and Regulations for Proxy Caregivers Used in Licensed Healthcare Facilities – Chapter 111-8-100
 - ✓ Proxy Caregiver: An unlicensed person who is qualified and has been trained by a licensed healthcare professional to perform documented health maintenance activities for an individual with a disability who has delegated the performance of such tasks to the proxy caregiver through a written informed consent.
 - ✓ Licensed facilities may allow proxy caregivers to perform health maintenance activities for individuals with disabilities provided a written informed consent is executed.

Proxy Caregiver Regulations

- Health Maintenance Activities: “limited activities that, but for a disability, a person could reasonably be expected to do for himself or herself.”
 - ✓ Activities typically taught by an RN, but may be taught by an attending physician, APRN, PA, or directly to a patient and are part of ongoing care.
 - ✓ Does not include complex care such as administration of IV medications, central line maintenance, and complex wound care.
 - ✓ Includes activities that do not require complex observations or critical decisions; can be safely performed and have reasonably precise, unchanging directions; and have outcomes that are reasonably predictable.

Proxy Caregiver Regulations

- Proxy Caregivers Functioning Independently in Licensed Residential Facilities
 - ✓ Facility permits individual to hire a proxy caregiver directly, facility must:
 - Develop written policies and procedures
 - Maintain copy of written informed consent that complies with the regulations
 - Maintain copy of written plan of care developed by licensed healthcare professional pursuant to a written order of an attending physician, or APRN or PA working under a nurse protocol or job description

Proxy Caregiver Regulations

- Proxy Caregivers Functioning Independently in Licensed Residential Facilities (con't)
 - ✓ Facility permits individual to hire a proxy caregiver directly, facility must:
 - Determine that written plan of care specifies the health maintenance activities to be performed, frequency of training and evaluation, and the kinds of changes that would necessitate additional training.
 - Maintain documentation signed by licensed healthcare professional reflecting qualification of proxy caregiver
 - Verify that there is a back-up proxy caregiver service plan

Proxy Caregiver Regulations

- Licensed Facilities Delivering Services Through Proxy Caregivers
 - ✓ Facility may employ, contract, or refer proxy caregivers to deliver health maintenance activities to disabled individuals with disabilities receiving services through the facility. Facility must do the following:
 - Develop and enforce written policies and procedures
 - Disclose certain information regarding proxy caregivers to individuals who are potential clients of the facility
 - Ensure the individual with a disability has executed a written informed consent

Proxy Caregiver Regulations

- Licensed Facilities Delivering Services Through Proxy Caregivers (con't)
 - ✓ Facility may employ, contract, or refer proxy caregivers to deliver health maintenance activities to disabled individuals with disabilities receiving services through the facility. Facility must do the following:
 - Ensure that a written plan of care is developed in accordance with the requirements under the regulations
 - Ensure the plan of care is implemented by appropriately trained proxy caregivers who have been specifically designated by the individual
 - Maintain specific training, qualification, and competency documentation

What Should You Be Doing Now?

- Review the services that you currently provide and determine whether you are in compliance with:
 - ✓ Memory care rules
 - ✓ Proxy caregiver rules
- Analyze your business to determine the appropriate licensure category for your facility once the new categories become effective
- Stay tuned for final rules for assisted living communities