Georgia Rules and Regulations
Administrative Bulletin for December 2024

OFFICE OF SECRETARY OF STATE
ADMINISTRATIVE PROCEDURE DIVISION
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Department 40. RULES OF GEORGIA DEPARTMENT OF AGRICULTURE

Chapter 40-32. HEMP AND HEMP PRODUCTS

Subject 40-32-1. GENERAL PROVISIONS

40-32-1-.02 Definitions

Words used in these rules in the singular form will be deemed to impart the plural, and vice versa, as the case may demand. For the purposes of this Chapter, the following terms will be construed, respectively, to mean:

(1) "Advertise" - means, but is not limited to, the act of publicizing, disseminating, soliciting, or circulating visual, oral, or written communication to induce or persuade any person to purchase or consume a consumable hemp product or visit a hemp retail establishment.

(2) "Agricultural Marketing Service" or "AMS" - means the Agricultural Marketing Service of the United States Department of Agriculture.

(3) "Analyte" - means a chemical, compound, element, bacteria, yeast, fungus, microbial, or toxin for which a product sample is tested by an independent laboratory.

(4) "Applicant" - means a person or entity that submits an application for a license or permit issued by the Department pursuant to the Georgia Hemp Farming Act. An application for an entity may be submitted by a person serving in an official capacity for the entity or by an agent who is authorized to sign for the entity.

(5) "Application" - means the necessary and required written request which must be submitted to the Department by an applicant, as required by the Department, and which includes, but may not be limited to, all requirements of the Georgia Hemp Farming Act and this Chapter.

(6) "Attractive to children" - means the use of any characters or symbols designed to appeal, or likely to appeal, primarily to individuals under 21 years of age, including but not limited to anthropomorphized animals, creatures, promotional characters, licensed characters, or inanimate objects; depictions of children; or depictions of candy.

(7) "Cannabis" - means a genus of flowering plants in the family Cannabaceae of which Cannabis sativa is a species, and Cannabis indica and Cannabis ruderalis are subspecies thereof.

(8) "Child resistant packaging" - means the special packaging of a product in final packaged form in compliance with the United States Poison Prevention Packaging Act of 1970, 15 U.S.C. Section 1471 et seq., as amended.

(9) "Commercial sale" - means the sale of a product in the stream of commerce at retail, at wholesale, or online.

(10) "Commissioner" - means the Georgia Commissioner of Agriculture.

(11) "Consumable hemp product" - means a hemp product intended to be ingested, absorbed, or inhaled by humans or animals.

(12) "Consumable hemp product in the form of a tincture" - means a consumable hemp product in the form of liquid, that is not a beverage or intended for drinking, that is intended for human consumption, and contains hemp suspended in a consumable base oil.

(13) "Consumable hemp product in the form of a gummy" - means a gelatinous substance in the form of a cube, sphere, prismatoid, ovoid, or other shape that is designed for human ingestion.

(14) "Consumable hemp product intended for topical application" - means a consumable hemp product in the form of a lotion, oil, transdermal patch, or other topical medium product intended to deliver the hemp product onto the surface of the skin.

(15) "Contaminant" - means a foreign substance or compound that may, if ingested, absorbed, or inhaled, have an adverse effect on the health of a human or animal. Such term shall include, without limitation, heavy metals, pesticide residues, residual solvents or processing chemicals, and any other substance or compound that the Department determines could, if ingested, absorbed, or inhaled, have an adverse effect on the health of a human or animal.

(16) "Controlled Substances Act" or "CSA" - means the Federal Controlled Substances Act, as codified in 21 U.S.C. 801 et seq.

(17) "Conviction" - means a final judgment of conviction entered upon a verdict or finding of guilty of a crime or upon a plea of guilty.

(18) "Corrective action plan" - means a plan established by the Department for a hemp grower licensee to correct negligent violations of the Georgia Hemp Farming Act or this Chapter.

(19) "Covered growing facility" - means a greenhouse, building or other structure identified by a hemp grower licensee as a grow site and which is not used for residential purposes.

(20) "Culpable mental state greater than negligence" - means to act intentionally, knowingly, willfully, or recklessly.

(21) "Cultivate" - means to plant, water, grow, and harvest a plant or crop.

(22) "Delta-9 THC" - means delta-9-tetrahydrocannabinol.

(23) "Delta-9-THCA" - means delta-9-tetrahydrocannabinolic acid.

(24) "Department" - means the Georgia Department of Agriculture, its agent(s), or its designee(s).

(25) "Dispose" or "Disposal" - means an activity that transitions non-compliant hemp or hemp products into a non-retrievable and non-ingestible form. Such activities with regard to non-compliant hemp include plowing, tilling, or disking plant material into the soil; mulching, composting, chopping, or bush mowing plant material into green manure; burning plant material; and burying plant material into the earth and covering with soil. Such activities with regard to non-compliant hemp products include, for edible consumable hemp products, finely chopping or grinding the consumable hemp product and mixing it with coffee grounds, soil, or garbage, making it inedible; for beverage consumable hemp products, pouring them down a plumbed drain and either recycling or disposing of the containers; and for any other consumable hemp product, placing the consumable hemp product into a container or box and sealing it prior to placement into the trash.

(26) "Drug Enforcement Administration" or "DEA" - means the United States Drug Enforcement Administration.

(27) "Dry weight basis" - means the ratio of the amount of moisture in a sample to the amount of dry solid in a sample. A basis for expressing the percentage of a chemical in a substance after removing the moisture from the substance. Percentage of THC on a dry weight basis means the percentage of THC, by weight, in a cannabis item (plant, extract, or other derivative), after excluding moisture from the item.

(28) "Entity" - means a corporation, joint stock company, association, limited partnership, limited liability partnership, limited liability company, irrevocable trust, estate, charitable organization, or other similar organization, including any such organization participating in the hemp production as a partner in a general partnership, a participant in a joint venture, or a participant in a similar organization.

(29) "Farm Service Agency" or "FSA" - means the Farm Service Agency of the United States Department of Agriculture.

(30) "Final packaged form" - means the form of packaging in which a consumable hemp product is intended for individual retail sale. This form does not include packaging, containers, or outer wrapping used solely for the transport of products in bulk quantity.

(31) "Federal Criminal History Report" - means the Federal Bureau of Investigation's Identity History Summary.

(32) "Food product" - means any product intended to be consumed by humans for physical subsistence; provided, however, that such term shall not include products that constitute drinks or beverages for purposes of this Chapter.

(33) "Full panel certificate of analysis" - means a report, produced by a registered laboratory which is unaffiliated with the processor or manufacturer and which has been accredited pursuant to the standards of the International Organization for Standardization for the competence, impartiality, and consistent operation of laboratories, attesting to the composition of a product.

(34) "Gas chromatography" - means a type of chromatography in analytical chemistry used to separate, identify, and quantify each component in a mixture. Gas chromatography relies on heat for separating and analyzing compounds that can be vaporized without decomposition.

(35) "Georgia Hemp Farming Act" - means O.C.G.A. § 2-23-1 et. seq.

(36) "Georgia Hemp Program" - means programs administered and actions taken in furtherance by the Department of the plan referenced in O.C.G.A. § 2-23-11, the remainder of the Georgia Hemp Farming Act, and O.C.G.A. §§ 16-12-240 through 16-12-243.

(37) "Geospatial location" or "GPS coordinates" - means a location designated through a global system of navigational satellites used to determine the precise ground position of a place or object.

(38) "Grow site" - means a contiguous lot, parcel, or tract of land identified in an approved hemp grower license application, as amended, at which a hemp grower licensee cultivates or intends to cultivate hemp. A grow site may include fields or covered growing facilities, as well as land and buildings that are not used to cultivate hemp. Each lot, parcel, or tract of land separated by a barrier or buffer of at least twelve feet (12') in width will be considered a separate grow site.

(39) "Handle" - means to possess or store hemp for any period of time other than during the actual transport of such hemp from the premises of a person licensed to cultivate or permitted to process hemp; or a college or university authorized to conduct research pursuant to O.C.G.A. § 2-23-4; to the premises of another licensed or permitted person or to a college or university authorized to conduct research pursuant to O.C.G.A. § 2-23-4; provided, however, that this term does not include possessing or storing hemp products.

(40) "Harvest" - means the collection of any portion of a live hemp plant at the termination of the cultivation process for the purpose of processing, distribution, storage, or sale.

(41) "Hemp" - means the Cannabis sativa L. plant and any part of such plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a total delta-9-THC concentration that does not exceed the legal limit.

(42) "Hemp crop" - means one or more unprocessed hemp plant(s) or plant parts.

(43) "Hemp grower license" or "Grower license" - means a license issued by the Department under the authority of the Georgia Hemp Farming Act authorizing a person to handle and cultivate hemp in the State of Georgia.

(44) "Hemp processor permit" or "Processor permit" - means a permit issued by the Department under the authority of the Georgia Hemp Farming Act authorizing a person to handle and process hemp in the State of Georgia.

(45) "Hemp product" - means all products with a total delta-9-THC concentration that does not exceed the legal limit and that are derived from, or made by, processing hemp plants or plant parts and that are prepared in a form available for commercial sale.

(46) "Industrial hemp product" - means any hemp product that is not a consumable hemp product.

(47) "Information sharing system" - means the database that allows USDA to share information collected under State, Tribal, and USDA plans with Federal, State, Tribal, and local law enforcement.

(48) "Key participant" - means a sole proprietor, a partner in partnership, or a person with executive managerial control in any entity when such entity is an applicant for a hemp grower license or processor permit. A person with executive managerial control includes, but is not limited to, persons such as a chief executive officer, chief operating officer, and chief financial officer. This definition does not include non-executive managers such as farm, field, or shift managers.

(49) "Labelling" - means any display of written, printed, or graphic matter printed on or affixed to any product.

(50) "Law enforcement" or "Law enforcement agency"- any Federal, State, or local law enforcement agency.

(51) "Legal limit" - means a total delta-9-THC concentration that is the lesser of:

(a) 0.3 percent, or

(b) the percentage limit set forth in 7 U.S.C. Section 1639o.

(52) "Licensee" - means an individual or business entity possessing a license issued by the Department under the authority of the Georgia Hemp Farming Act.

(53) "Live hemp plant" - means for purposes of this Chapter, any whole or propagative part of the hemp plant capable or intended for propagation or growth, including living flowers and plants, immature plants, and vegetative stage plants, but excluding seeds.

(54) "Liquid chromatography" - means a type of chromatography technique in analytical chemistry used to separate, identify, and quantify each component in a mixture. Liquid chromatography relies on pumps to pass a pressurized liquid solvent containing the sample mixture through a column filled with a solid absorbent material to separate and analyze compounds.

(55) "Lot" - means a contiguous area in a field or covered growing facility containing the same variety or strain of cannabis throughout the area.

(56) "Low-THC oil" - shall have the same meaning as set forth in O.C.G.A. § 16-12-190.

(57) "Manufacture" - means to create, produce, manipulate, combine, or package.

(58) "Manufacturer license" - means a license issued by the Department under the authority of the Georgia Hemp Farming Act to an individual or business entity that manufactures consumable hemp products or industrial hemp products in Georgia.

(59) "Measurement of uncertainty" or "MU" - means the parameter, associated with the result of a measurement, that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to measurement.

(60) "Negligence" - means failure to exercise the level of care that a reasonably prudent person would exercise in complying with the Georgia Hemp Farming Act and this Chapter.

(61) "Permittee" - means an individual or business entity possessing a hemp processor permit issued by the Department under the authority of the Georgia Hemp Farming Act to handle and process hemp in the State of Georgia.

(62) "Person" - means a natural person, corporation, foundation, organization, business trust, estate, limited liability company, licensed corporation, trust, partnership, limited liability partnership, association, or other form of legal business entity, as well as a state or local government entity.

(63) "Post-decarboxylation" - means in the context of testing methodologies for THC concentration levels in hemp and hemp products, a value determined after the process of decarboxylation that determines the total potential delta-9 tetrahydrocannabinol content derived from the sum of the THC and THCA content and reported on a dry weight basis. The post-decarboxylation value of THC can be calculated by using a chromatograph technique using heat, gas chromatography, through which THCA is converted from its acid form to its neutral form, THC. The post-decarboxylation value of THC can also be calculated by using a liquid chromatograph technique, which keeps the THCA intact. This technique requires the use of the following conversion: [Total THC = (0.877 x THCA) + THC] which calculates the potential total THC in a given sample.

(64) "Process" or "processing" - means converting an agricultural commodity, including hemp, into a legally marketable form. This definition does not include:

(a) Merely placing raw or dried material into another container or packaging raw or dried material for resale; or

(b) Traditional farming practices such as those commonly known as drying, shucking and bucking, storing, trimming, and curing.

(65) "Produce" - means to grow hemp plants for market, or for cultivation for market, in the United States.

(66) "Product lot" - means a specific quantity of a specific finished hemp product that is processed or manufactured at the same time and using the same methods, equipment, and ingredients, and that is uniform and intended to meet specifications for identity, strength, purity, and composition.

(67) "QR code" - means a quick response code that is a type of machine-readable, two-dimensional barcode that stores information about a product.

(68) "Registered laboratory" - means an individual or business entity that tests or analyzes any plant within the genus Cannabis, including but not limited to hemp, and products made from or derived from such plant, including but not limited to hemp products and consumable hemp products, and that has registered with the Department under this Chapter.

(69) "Remediate" or "Remediation" - means the process of rendering non-compliant hemp, compliant. Remediation can occur by removing and destroying flower material, while retaining stalk, stems, leaf material, and seeds. Remediation can also occur by shredding the entire plant into a biomass like material, then re-testing the shredded biomass material for compliance.

(70) "Residential purposes" - means use or intended use of a building or portion thereof, including but not limited to apartments, townhomes, and other multi-family structures, for occupancy by one or more persons for living, sleeping, cooking, or eating.

(71) "Retail consumable hemp establishment license" - means a means a license issued by the Department under the authority of the Georgia Hemp Farming Act to an individual or business entity that prepares or sells prepackaged consumable hemp products to consumers.

(72) "Reverse distributor" - means a person who is registered with the DEA in accordance with 21 CFR 1317.15 to dispose of marijuana under the Controlled Substances Act.

(73) "Secretary" - means the United States Secretary of Agriculture.

(74) "Serving size" - means the size or portion customarily consumed per dose.

(75) "Tamper evident" - means either that the packaging is sealed so that the contents cannot be accessed without obvious destruction of the seal upon initial opening or having one or more indicators of modification which, if breached, missing, or altered, can reasonably be expected to provide visible evidence that tampering has occurred.

(76) "Transport" - means to move or transfer product from one location to another.

(77) "Total delta-9-THC" - means a concentration of delta-9-THC as determined in accordance with O.C.G.A. § 2-23-3.1.

(78) "Universal symbol" - means the universal cannabis product symbol adopted by the Department for use on consumable hemp product packaging.

(79) "USDA" - means the United States Department of Agriculture.

(80) "Variety" - means a group of plants or an individual plant that exhibits distinctive observable physical characteristic(s) or has a distinct genetic composition. For purposes of this Chapter, "variety" is synonymous and interchangeable with "strain".

(81) "Volunteer cannabis plant" - means any cannabis plant that:

(a) grows of its own accord from seeds or roots in the years following an intentionally planted cannabis crop; and

(b) is not intentionally planted.

(82) "Warning sticker of the universal symbol" - means a sticker, or equivalent re-production, of the universal symbol adopted by Georgia warning potential consumers that the product contains THC.

(83) "Wholesale consumable hemp license" - means a license issued by the Department under the authority of this Chapter to an individual or entity that sells, in bulk, prepackaged consumable hemp products to retail consumable hemp establishment licensees or to other retail establishments located outside of the State of Georgia that are authorized to sell consumable hemp products to consumers in the jurisdiction where such establishments are located.

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Department 40. RULES OF GEORGIA DEPARTMENT OF AGRICULTURE

Chapter 40-32. HEMP AND HEMP PRODUCTS

Subject 40-32-5. CONSUMABLE HEMP PRODUCTS

40-32-5-.02 Total Delta-9-THC Concentration and Contaminant Limits

(1) Cannabinoid and Contaminant Limits. No consumable hemp product intended for commercial sale or distribution in Georgia may contain cannabinoids or contaminants that exceed the limits established in applicable Federal and State laws. Additionally, no consumable hemp product intended for commercial sale or distribution in Georgia shall contain analytes in excess of the following limits:

(a) Residual solvents, measured in parts per billion (ppb):

1. Butane: 800,000;

2. Ethanol: 5,000,000;

3. Heptane: 500,000; and

4. Hexane: 100,000.

(b) Heavy metals, measured in parts per billion (ppb), for the following analytes, by product:

1. Arsenic

(i) Consumable hemp products intended for inhalation: 200;

(ii) Consumable hemp products intended for sublingual use, such as a tincture: 500;

(iii) Consumable hemp products in the form of a gummy, beverage, or other ingestible medium: 500; and

(iv) Consumable hemp products intended for topical application: 500.

2. Cadmium

(i) Consumable hemp products intended for inhalation: 200;

(ii) Consumable hemp products intended for sublingual use, such as a tincture: 500;

(iii) Consumable hemp products in the form of a gummy, beverage, or other ingestible medium: 500; and

(iv) Consumable hemp products intended for topical application: 500.

3. Lead

(i) Consumable hemp products intended for inhalation: 500;

(ii) Consumable hemp products for sublingual use, such as tinctures: 500;

(iii) Consumable hemp products in the form of a gummy, beverage, or other ingestible medium: 500; and

(iv) Consumable hemp products intended for topical application: 500.

4. Mercury

(i) Consumable hemp products intended for inhalation: 200;

(ii) Consumable hemp products designed for sublingual use, such as tinctures: 500;

(iii) Consumable hemp products in the form of a gummy, beverage, or other ingestible medium: 500; and

(iv) Consumable hemp products intended for topical application: 500.

(c) For the following pesticides, 100 parts per billion (ppb) or the registered laboratory's lowest possible limit of quantitation (LOQ) for such respective analyte, whichever is lower:

1. Abamectin;

2. Acephate;

3. Acequinocyl;

4. Acetamiprid;

5. Aldicarb;

6. Azoxystrobin;

7. Bifenazate;

8. Bifenthrin;

9. Boscalid;

10. Carbaryl;

11. Carbofuran;

12. Chlorantraniliprole;

13. Chlordane;

14. Chlorpyrifos;

15. Coumaphos;

16. Cyfluthrin;

17. Cypermethrin;

18. Daminozide;

19. Diazinon;

20. Dichlorvos;

21. Dimethoate;

22. Dimethomorph;

23. Ethoprophos;

24. Etofenprox;

25. Etoxazole;

26. Fenoxycarb;

27. Fenhexamid;

28. Fipronil;

29. Flonicamid;

30. Fludioxonil;

31. Hexythiazox;

32. Imazalil;

33. Imidacloprid;

34. Kresoxim Methyl;

35. Malathion;

36. Metalaxyl;

37. Methiocarb;

38. Methomyl;

39. Mevinphos;

40. Myclobutanil;

41. Oxamyl;

42. Paclobutrazol;

43. Permethrin;

44. Phosmet (Imidan);

45. Prallethrin;

46. Propiconazole;

47. Propoxur;

48. Pyridaben;

49. Spinetoram;

50. Spiromesifen;

51. Spirotetramat;

52. Spiroxamine;

53. Tebuconazole;

54. Thiacloprid;

55. Piperonyl butoxide;

56. Thiamethoxam; and

57. Trifloxystrobin.

(d) Any visible foreign material that is not intended to be part of the consumable hemp product being produced, including, but not limited to, filth, hair, insects, metal, or plastic.

(e) Microbial impurities, measured in colony-forming unit per gram (cfu/g), for each of the following analytes:

1. Total viable aerobic bacteria: 100,000;

2. Total yeast and mold: 10,000;

3. Bile-tolerant gram negative bacteria: 1,000;

4. Shiga-toxin producing escherichia coli (STEC): 1.0; and

5. Aspergillus fumigatus, Aspergillus flavus, Aspergillus niger, and Aspergillus terreus: 1.0.

(f) Mycotoxins, 20 parts per billion (ppb), for each of the following analytes:

1. Aflatoxin B1;

2. Aflatoxin B2;

3. Aflatoxin G1;

4. Aflatoxin G2; and

5. Ochratoxin A.

Cite as Ga. Comp. R. & Regs. R. 40-32-5-.02

AUTHORITY: O.C.G.A. §§ 2-2-9**;** 2-23-1 **et seq.**

HISTORY: Original Rule entitled "Concentration and Contaminant Limits" adopted. F. Sept. 11, 2024; eff. Oct. 1, 2024.

Note: Correction of administrative typographical error in Rule History, original Rule title corrected to "Concentration and Contaminant Limits." Effective January 8, 2025.

Repealed: New Rule entitled "Total Delta-9-THC Concentration and Contaminant Limits" adopted. F. Dec. 19, 2024; eff. Jan. 8, 2025.

40-32-5-.03 Labelling of Consumable Hemp Products

(1) Required Labelling. All consumable hemp products, prior to commercial sale or other distribution in Georgia, shall be labeled at least in accordance with the Georgia Hemp Farming Act and this Chapter.

(a) General Provisions. Prior to and throughout commercial sale or distribution in Georgia, consumable hemp products must bear labels. Such labels must conform to the below general requirements.

1. All required label information must be presented in at least the English language.

2. Labels shall be unobstructed and conspicuous such that a consumer can easily identify and read the contained information.

3. Labels shall include a warning sticker containing the universal symbol, unless the consumable hemp products contain no THC (including isomers and esters thereof).

4. No consumable hemp product labeled may contain a health-related statement that is untrue or misleading.

(i) Any health-related statement must be supported by the totality of publicly available scientific evidence and significant scientific agreement among experts qualified by scientific training and experience to evaluate such claims.

5. No consumable hemp product shall bear a label that contains any information that is false or misleading.

6. Consumable hemp product labels must identify the product lot in which the consumable hemp product was produced.

(b) Contents Labelling. Prior to and throughout commercial sale or distribution in Georgia, consumable hemp product labels must identify the contents of the product. Labels must conform to at least the below requirements.

1. Labels for consumable hemp products must include either:

(i) All results of a full panel certificate of analysis; or

(ii) A QR code providing direct access to all results of the full panel certificate of analysis.

2. Labels for consumable hemp products in the form of gummies, beverages, or tinctures shall express the total delta-9-THC content in milligrams per serving size and milligrams per package.

3. Labels for consumable hemp products intended for topical application shall express the total delta-9-THC content in milligrams per package.

4. Labels for consumable hemp shall bear a list of all product ingredients in descending order of predominance by weight or volume. If any product ingredient contains sub-ingredients, the list shall either:

(i) Include the common name of the ingredient followed by a parenthetical listing of all ingredients in descending order by weight or volume; or

(ii) List all sub-ingredients as individual ingredients in descending order of predominance.

5. Labels for consumable hemp products shall list any major food allergens contained.

6. Labels for consumable hemp products must list the cannabinoid content reflected on the full panel certificate of analysis. The amount may be rounded to the nearest tenth of a percent. Notwithstanding the preceding sentence, no consumable hemp product may be labeled as exceeding the total delta-9-THC concentration legal limit.

(2) Full Panel Certificate of Analysis. Full panel certificates of analysis must attest to at least the following analytes:

(a) The chemical profile of the following cannabinoid compounds represented as a percent of total weight:

1. Total delta-9-THC concentration;

2. Cannabidiol (CBD);

3. Cannabidiolic acid (CBD-A);

4. Cannabigerol (CBG);

5. Cannabigerol acetate (CBG-A);

6. Cannabinol (CBN);

7. Delta-8-tetrahydrocannabinol (D8-THC);

8. Delta-9(11) exo-tetrahydrocannabinol (Exo-THC);

9. Delta-10-tetrahydrocannabinol (D10-THC);

10. THC-O acetate (THC-OA);

11. THC-O-phosphate (THC-O); and

12. Hexahydrocannabinol (HHC).

(b) The occurrence of the analytes identified in Ga. Comp. R. & Regs. r. 40-32-5-.02(a)-(c) & (e)-(f), represented in parts per billion (ppb).

(3) Warning Sticker of the Universal Symbol. Any consumable hemp product sold or otherwise distributed in the state shall bear a sticker, or equivalent re-production, of the universal symbol warning potential consumers that the product contains THC.

(a) The universal symbol shall replicate the following form:

(b) The universal symbol shall be in black and yellow.

(c) The universal symbol must be at least one-half inch in height.

(d) The universal symbol shall not be altered or manipulated in any way other than to increase the size. No changes shall alter the proportions of the universal symbol.

Cite as Ga. Comp. R. & Regs. R. 40-32-5-.03

AUTHORITY: O.C.G.A. §§ 2-2-9**;** 2-23-1 **et seq.**

HISTORY: Original Rule entitled "Labelling of Consumable Hemp Products" adopted. F. Dec. 19, 2024; eff. Jan. 8, 2025.

40-32-5-.04 Packaging of Consumable Hemp Products

(1) Packaging Minimum Requirements. Consumable hemp products in final packaged form shall utilize packaging that meets the following minimum requirements:

(a) Packaging shall protect the consumable hemp product from contamination and exposure to any toxic or harmful substance;

(b) Packaging shall be tamper-evident;

(c) Packaging shall be child resistant;

(d) Packaging shall not be attractive to children;

(e) Packaging shall not bear a reasonable resemblance to any existing candy, snack, or other food product that is widely distributed and familiar to the public;

(f) Packaging shall not infringe on any trade dress, trademark, branding, or other related materials as described in O.C.G.A. § 10-1-440 et seq. or in Chapter 22 of Title 15 of the United States Code;

(g) Packaging shall not suggest the consumable hemp product constitutes or contains low-THC oil, medical marijuana, or medical cannabis.

(h) Packaging shall not mislead potential or actual consumers as to the contents of the package;

(i) Packaging for consumable hemp products that contain more than one serving shall be resealable, with the exclusion of consumable hemp products in the form of vapes.

(j) Packaging for consumable hemp products in the form of a tincture shall be packaged in such a way as to include a calibrated dropper or similar device for measuring a single serving.

Cite as Ga. Comp. R. & Regs. R. 40-32-5-.04

AUTHORITY: O.C.G.A. §§ 2-2-9**;** 2-23-1 **et seq.**

HISTORY: Original Rule entitled "Packaging of Consumable Hemp Products" adopted. F. Dec. 19, 2024; eff. Jan. 8, 2025.

40-32-5-.05 Advertising

(1) Prohibited Manners of Advertising. No consumable hemp product shall be advertised in this state in any manner that:

(a) Is attractive to children;

(b) Bears a reasonable resemblance to any existing candy, snack, or other food product that is widely distributed and familiar to the public;

(c) Infringes on any trade dress, trademarks, branding, or other related materials as described in O.C.G.A. § 10-1-440 et seq. or in Chapter 22 of Title 15 of the United States Code; or

(d) Suggests that such product constitutes or contains low-THC oil, or otherwise constitutes or contains medical marijuana or medical cannabis.

(2) Representation as a Low-THC Oil Dispensary. No person in this state that sells or otherwise distributes consumable hemp products to consumers shall advertise or represent themselves as selling, dispensing, or distributing low-THC oil or products containing low-THC oil, unless such person holds the required dispensing license.

Cite as Ga. Comp. R. & Regs. R. 40-32-5-.05

AUTHORITY: O.C.G.A. §§ 2-2-9**;** 2-23-1 **et seq.**

HISTORY: Original Rule entitled "Advertising" adopted. F. Dec. 19, 2024; eff. Jan. 8, 2025.

40-32-5-.06 Serving Sizes and Serving Limits

(1) Maximum Serving Sizes and Serving Limits. Consumable hemp products in final packaged form shall not contain an amount of total delta-9-THC in excess of the limits prescribed herein.

(a) A consumable hemp product in the form of a gummy shall not contain more than:

1. 10 milligrams of total delta-9-THC per gummy; and

2. 300 milligrams of total delta-9-THC per package.

(b) A consumable hemp product in the form of a beverage shall:

1. Not contain more than 10 milligrams of total delta-9-THC per 12 fluid ounces, or the proportionate equivalent; and

2. Not exceed 12 fluid ounces per container.

(c) A consumable hemp product intended for topical application shall not contain more than 1,000 milligrams of total delta-9-THC per package.

(d) A consumable hemp product in the form of a tincture shall:

1. Not contain a ratio higher than 2 milligrams of total delta-9-THC per 1 milliliter; and

2. Not exceed 60 milliliters per container.

Cite as Ga. Comp. R. & Regs. R. 40-32-5-.06

AUTHORITY: O.C.G.A. §§ 2-2-9**;** 2-23-1 **et seq.**

HISTORY: Original Rule entitled "Serving Sizes and Serving Limits" adopted. F. Dec. 19, 2024; eff. Jan. 8, 2025.

Department 55. GEORGIA AUCTIONEERS COMMISSION

Chapter 55-3. APPLICATION FOR LICENSURE

55-3-.04 Reinstatement - Auctioneer

(1) Failure to renew an Auctioneer license by March 31st of each even numbered year shall have the same effect as revocation. Any consideration for license reinstatement shall be at the discretion of the Commission and shall require submission of a reinstatement application and reinstatement fee.

(2) The Commission in its discretion may reinstate an Auctioneer license upon receipt of an application, evidence of completion of at least eight (8) hours of Commission-approved Continuing Education within the previous 24 months and appropriate fees as noted on the Fee Schedule.

(3) Licenses that have been lapsed for over two (2) years may be reinstated at the discretion of the Commission when the applicant has met the following criteria:

(a) Retaken and passed the Commission-approved examination; or

(b) Submitted a verified license in good standing issued by another country, or by any state, territory, or possession of the United States which has requirements for licensure substantially similar to the Commission.

Cite as Ga. Comp. R. & Regs. R. 55-3-.04

AUTHORITY: O.C.G.A. §§ 43-6-7**,** 43-6-8**,** 43-6-10**,** 43-6-11**,** 43-6-11.2**,** 43-6-12**,** 43-6-13**.**

HISTORY: Original Rule entitled "Reinstatement - Auctioneer" adopted. F. Nov. 16, 2023; eff. Dec. 6, 2023.

Amended: F. Dec. 10, 2024; eff. Dec. 30, 2024.

Department 55. GEORGIA AUCTIONEERS COMMISSION

Chapter 55-6. FEES

55-6-.01 Fees, Expiration Dates, and Late Renewals

(1) All fees for applications for license, renewals, late renewals, reinstatements, and all other fees which may be authorized by law shall be established by the Commission periodically as set forth on a fee schedule and may be obtained from the Commission office. Such fees must be paid directly to the Commission office.

(2) Late Renewal Fee: All licenses expire on February 28 of each even numbered year.

Renewals received after February 28th will result in a penalty fee so long as a renewal is received by March 31st following the February 28th expiration deadline.

(3) Fees for Auctioneering Schools: All fees for applications for auctioneering schools and other licenses, renewals, late renewals, and all other fees that may be authorized by law shall be established by the Commission periodically as set forth on a fee schedule and may be obtained from the Commission office.

(4) When an application for an original license is made, the licensee shall contribute an amount established by the Commission into the Education, Research and Recovery Fund. See fee schedule maintained by the Commission Office for current contribution required.

(5) The Commission may require additional contributions to the Education, Research and Recovery Fund at any renewal period, provided the request is in compliance with O.C.G.A. Section 43-6-22.1.

Cite as Ga. Comp. R. & Regs. R. 55-6-.01

AUTHORITY: O.C.G.A. §§ 43-6-3**,** 43-6-7**,** 43-6-8**,** 43-6-10**,** 43-6-11.2**,** 43-6-13**,** 43-6-22.1**.**

HISTORY: Original Rule entitled "Fees" adopted. F. Sept. 23, 1983; eff. Oct. 13, 1983.

Amended: F. Aug. 8, 1985; eff. Aug. 28, 1985.

Amended: F. Sept. 20, 1989; eff. Oct. 10, 1989.

Amended: F. May 17, 1990; eff. June 6, 1990.

Amended: F. Oct. 24, 1991; eff. Nov. 13, 1991.

Amended: F. Nov. 13, 1995; eff. Dec. 3, 1995.

Amended: F. June 6, 1996; eff. June 26, 1996.

Amended: F. Nov. 13, 1997; eff. Dec. 3, 1997.

Repealed: New Rule entitled "Fees, Expiration Dates, and Late Renewals" adopted. F. May 10, 2005; eff. May 30, 2005.

Repealed: New Rule of same title adopted. F. Oct. 14, 2010; eff. Nov. 1, 2010.

Amended: F. Apr. 14, 2021; eff. May 4, 2021.

Amended: F. Dec. 10, 2024; eff. Dec. 30, 2024.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-2. CREDIT UNIONS

Subject 80-2-1. BOOKS AND RECORDS

80-2-1-.02 Minimum Requirements for Books and Records

(1) In addition to the requirements otherwise set forth herein, the following subsidiary records must be maintained:

(a) Securities Register - shall contain a record of all securities, certificates of deposit, commercial paper, acceptances, and other investments bought or sold, showing date of transaction, proper name of the security, interest rate, maturity date, par value, purchase price, book value, schedule of amortization of premium and accretion of discounts, and location where the security is held.

(b) Loan Ledgers -

1. credit unions shall maintain a record of the direct and indirect liability of each member;

2. where a credit union elects to maintain installment loans separately from other direct loans of a borrower and does not include them on the Liability Ledger above, they may be maintained in a separate ledger with payments being posted directly thereto. Such ledger must reflect any and all modifications to the terms of the original note contract which may be granted from time to time, i.e., adjustments of the due date or amount of payments;

3. such record may be maintained in whatever order desired by management, i.e., alphabetical, numerical, class of loan, except where they are not maintained alphabetically, a cross-reference file must be maintained.

(c) Deposit Ledgers - credit unions must maintain separate deposit records for each general ledger segregation of deposits. Such record must contain a continuing itemized record of all deposits and withdrawals. Deposits will be segregated into no fewer than the following categories: Transaction or Share Draft Accounts, Savings Deposits, Christmas Savings, and Member Deposit Certificates. Deposit records must be posted daily wherever the credit union offers transaction or share draft accounts; provided, a credit union may defer business conducted on Saturday for posting on the next business day. Such record may be maintained in whatever order desired by management; i.e., alphabetical, numerical, class of deposit, except where they are not maintained alphabetically, a cross-reference file must be maintained.

(d) Income and Expense Register - a detailed record of income and expenses must be maintained. Expenses are to be recorded in such detail as to clearly describe each expense; i.e., supplies, rent, salaries, etc.

(e) Cash Items Register - a daily listing must be maintained of all cash items held which shows the maker on the item, last endorser, date acquired, amount, and reason held. The register may be maintained on a decentralized basis at each of the credit union's operating offices. The current register shall be reviewed by the Board of Directors at least monthly. For purposes of this Rule, Cash Items shall include any item received by a credit union and paid but for which reimbursement by the maker or endorser is not made before the end of the next business day following the date in which the item is received, except such items as are customarily held by the credit union for settlement with its member, whether maker or endorser on the item, not less frequently than weekly. Where the item is held beyond the regular settlement date, it shall be considered as a Cash Item within the definition of this Rule. In addition to the foregoing, Cash Items and the register thereof shall include such other items as the Board of Directors shall from time to time determine.

(f) Charged-Off Assets - all charge-offs, including loans, must be approved by the Board of Directors and such approvals recorded in the minute book. A permanent record of all charge-offs and recoveries thereon must be maintained. When a recovery is made on an asset that has been charged off, the funds are to be credited to the regular reserve and applied to the account that was charged off.

(g) Safekeeping Register - a register must be maintained of all items held for safekeeping by a credit union for its members other than items maintained in a safe deposit box under the sole control of the member. The register should describe the item fully, show the name of the owner, date received, and the number of the receipt given to the member. When the item is returned to the member, the receipt must be secured by the credit union, signed by the member stating that he has received the item that was held for safekeeping. The receipt must then be maintained with the safekeeping register.

(h) Reconcilement Records - the Audit Committee shall reconcile correspondent account statements monthly or shall verify for accuracy reconcilements made by others. A copy of each reconcilement shall be filed in chronological order and kept as a record. The Audit Committee may delegate this responsibility to an internal auditor provided such person has no authority to sign on the account or to initiate or post entries to the general ledger.

(i) Overdrafts - a record of all overdrawn deposit accounts shall be maintained. Such record shall contain the name of the account holder, the amount of the overdraft, and the date the overdraft originated. The most current record shall be approved by the Credit Committee or, in lieu thereof, by the board of directors of the credit union at least monthly, and such approval shall be recorded in the minutes of the meeting at which the action was taken. Overdrafts of less than $1,000, other than overdrafts on the accounts of officers, and directors may be aggregated and reported in lump sum.

(2) All subsidiary records maintained in support of General Ledger accounts must be balanced back to the General Ledger control balance at least monthly. After balancing at the end of each month on all accounts segregated in the general ledger, the balances and the amounts shown in the general ledger of those accounts and the reconcilement of differences, if any, must be recorded in the Trial Balance Log. The date and the initials of the person running the trial balance must be entered in the log.

(3) Information required to be maintained pursuant to this Rule may be in written form or available subject to access upon computer query. If available, subject to query access, a written record of such information shall be produced at least monthly.

(4) Where a credit union has net worth of $5,000,000 or more, review by the Board of Directors as required in paragraphs (1)(e), (1)(f), and (1)(i) above, may be delegated to a specific officer or department of the credit union where such delegation is recorded in the minutes of the Board of Directors. A properly constituted member of the Board of Directors may perform this function for the full Board of Directors regardless of the size of the credit union.

Cite as Ga. Comp. R. & Regs. R. 80-2-1-.02

AUTHORITY: O.C.G.A. §§ 7-1-61**;** 7-1-663**.**

HISTORY: Original Rule entitled "Minimum Requirements for Books and Records" adopted. F. June 17, 1976; eff. July 7, 1976.

Amended: F. July 13, 1981; eff. August 2, 1981.

Amended: F. Aug. 17, 1983; eff. Sept. 6, 1983.

Repealed: New Rule of same title adopted. F. Oct. 12, 1989; eff. Nov. 1, 1989.

Amended: F. Sept. 1, 2004; eff. Sept. 21, 2004.

Amended: F. June 29, 2017; eff. July 19, 2017.

Amended: F. July 9, 2019; eff. July 29, 2019.

Amended: F. Dec. 20, 2024; eff. Jan. 9, 2025.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-5. FINANCIAL INSTITUTIONS

Subject 80-5-1. SUPERVISION, EXAMINATION, REGISTRATION AND INVESTIGATION FEES AND ADMINISTRATIVE LATE FEES

80-5-1-.02 License and Supervision Fees for Check Cashers, Money Transmitters, Representative Offices, Mortgage Lenders, Mortgage Brokers, Mortgage Loan Originators, and Installment Lenders; Due Dates

(1) Money transmitters.

(a) The annual license fee is one thousand nine hundred dollars ($1,900) for money transmitters.

(b) The annual renewal license fee is one thousand nine hundred dollars ($1,900) money transmitters and shall be due and must be received by the Department on or before the first day of December of each year. A licensee whose renewal application and annual license renewal fee is not received by the Department on or before December 1 may be assessed a late fine of three hundred dollars ($300) and cannot be assured of renewal of its license prior to January 1.

(c) An additional non-refundable application investigation fee of two hundred fifty dollars ($250) will be assessed.

(d) Applicants for Department approval of a change in ownership, change in control, or change in executive officer as set forth in O.C.G.A. § 7-1-688 shall pay a nonrefundable investigation, application, and processing fee of five hundred dollars ($500).

(2) Check Cashers.

(a) The annual license fee is three hundred dollars ($300).

(b) The annual renewal license fee is three hundred dollars ($300).

(c) An initial investigation and supervision fee shall be five hundred fifty dollars ($550) for the first year. It is not refundable, but if the license is granted it shall satisfy the annual fee for the first license period.

(d) Initial and renewal license fees shall also include an additional thirty dollars ($30) for the second and each additional location, plus a fee in an amount as directed by the Department to cover the cost of the required number of fingerprints for each individual background check.

(e) Annual renewal license fees shall be due and must be received by the Department on or before the first day of December of each year. A licensee whose renewal application and annual renewal license fee is not received by the Department on or before the first day of December of each year may be assessed a late fine of three hundred dollars ($300) and cannot be assured of renewal of its license prior to January 1.

(f) Applicants for Department approval of a change in ownership, change in control, or change in executive officer as set forth in O.C.G.A. § 7-1-705.1 shall pay a nonrefundable investigation, application, and processing fee of five hundred dollars ($500).

(3) Registrants of Georgia state representative offices as defined in O.C.G.A. § 7-1-1100 shall pay an annual registration fee of one thousand dollars ($1,000).

(4) Mortgage licensees.

(a) Lenders. The initial and renewal application and license fee for mortgage lenders shall be nine hundred dollars ($900). The initial fee of nine hundred dollars ($900) covers the main office. Any branch offices included in the initial application shall be assessed a fee of three hundred thirty dollars ($330) each. A fee of three hundred thirty dollars ($330) will be assessed for each additional office not initially registered, if such office is located in Georgia, and if mortgage lending activity is conducted at the office. An initial investigation fee of two hundred fifty dollars ($250) per applicant shall also apply. Subsequent renewal applications and license fees must be received on or before December 1 of each year or the applicant may be assessed a late fine of three hundred dollars ($300). A renewal application and license fee not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will expire. Applicants may not conduct a mortgage business without a current license or registration.

(b) Brokers. The initial and renewal application and license fee for mortgage brokers shall be four hundred dollars ($400). The initial four hundred dollar ($400) fee covers the main office. Any branch offices located in Georgia shall be assessed a fee of three hundred thirty dollars ($330) each. Brokers include loan processors. Processors are defined in Rule 80-11-4-.07. Such a processor may have a separate main office and other branch offices where mortgage loan processing is done. The offices will be treated the same as brokers' offices. An initial investigation fee of two hundred fifty dollars ($250) per applicant shall also apply. Subsequent renewal applications and license fees must be received on or before December 1 of each year or the applicant may be assessed a late fine of three hundred dollars ($300). A renewal application and license fee that is not received on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will expire. Applicants may not conduct a mortgage business without a current license or registration.

(c) Mortgage Loan Originators. The initial and renewal application and license fee for mortgage loan originators shall be two hundred dollars ($200). Subsequent renewal application fees must be received by the Department on or before December 1 of each year or the applicant may be assessed a late fine of two hundred dollars ($200). A renewal application is not deemed received until all required information, including a renewal fee in the appropriate amount and documentation showing that the requisite continuing education hours have been obtained, has been provided by the licensee. A renewal application, containing all of the required information along with the correct fees and proof of required continuing education that is not received by the Department on or before the December 1 renewal application deadline of each year cannot be assured of issuance or renewal prior to January 1, at which time the license or registration will expire. Applicants may not conduct mortgage loan origination activity without a current license.

(d) All late fees collected by the Department, net of the cost of recovery, which cost shall include any cost of hearing and discovery in preparation for hearing, shall be paid into the state treasury to the credit of the general fund or may be paid as provided in O.C.G.A. § 7-1-1018(e).

(e) Applicants for approval to acquire directly or indirectly ten percent (10%) or more of the voting shares of a corporation or ten percent (10%) or more of the ownership of any other entity licensed to conduct business as a mortgage lender and/or a mortgage broker under O.C.G.A. Article 13 (otherwise called change of control) shall pay a nonrefundable investigation, application and processing fee of five hundred dollars ($500).

(f) Application for an additional office of a licensee shall be accompanied by a nonrefundable fee of three hundred thirty dollars ($330), as provided in O.C.G.A. § 7-1-1006.

(5) Installment Lenders.

(a) The annual license fee is five hundred dollars ($500).

(b) The annual license renewal fee is five hundred dollars ($500) and must be received by the Department on or before the first day of December of each year. A licensee whose renewal application and annual license renewal fee is not received by the Department on or before December 1 may be assessed a late fine of three hundred dollars ($300) and cannot be assured of renewal of its license prior to January 1.

(c) An additional nonrefundable initial application investigation fee of two hundred fifty dollars ($250) will be assessed.

(d) Applicants for Department approval of a change in ownership, change in control, or change in executive officer as set forth in O.C.G.A. § 7-3-32 shall pay a nonrefundable investigation, application, and processing fee of five hundred dollars ($500).

(e) An application for an additional location of a licensee shall be accompanied by a nonrefundable fee of three hundred dollars ($300). An annual renewal fee of three hundred dollars ($300) per each approved additional location shall be due and must be received by the Department on or before the first day of December of each year.

(6) The Department may discount or surcharge all supervision or license fees herein provided to assure funding of annual appropriations by the General Assembly.

(7) Any fees or charges imposed by the Nationwide Multistate Licensing System and Registry ("NMLSR") shall be independent of any fees charged by the Department. Applicants, licensees, and registrants will be responsible for any and all fees or charges imposed by NMLSR.

(8) All license, investigation, and supervision fees, late fees, fines, taxes owed to the Department, and assessed civil penalties must be paid prior to renewal, reinstatement, or reapplication for a license or any other approval from the Department.

Cite as Ga. Comp. R. & Regs. R. 80-5-1-.02

AUTHORITY: O.C.G.A. §§ 7-1-41**,** 7-1-61**,** 7-1-683**,** 7-1-685**,** 7-1-702**,** 7-1-704**,** 7-1-716**,** 7-1-721**,** 7-1-1004 7-1-1005**,** 7-3-20**,** 7-3-32**.**

HISTORY: Original Rule entitled "Supervision Fees" adopted. F. Nov. 4, 1975; eff. Nov. 24, 1975.

Amended: F. June 8, 1976; eff. June 28, 1976.

Repealed: New Rule of the same title adopted. F. June 9, 1980; eff. July 1, 1980, as specified by the Agency.

Repealed: New Rule entitled "License Registration and Supervision Fees" adopted. F. May 24, 1982; eff. June 13, 1982.

Amended: F. June 28, 1984; eff. August 1, 1984, as specified by the Agency.

Amended: F. June 10, 1988; eff. June 30, 1988.

Repealed: New Rule of same title adopted. F. Sept. 4, 1990; eff. Sept. 24, 1990.

Amended: F. Oct. 15, 1993; eff. Nov. 4, 1993.

Amended: F. Sept. 26, 1995; eff. Oct. 16, 1995.

Amended: Rule retitled "License, Registration and Supervision Fees for Check Cashers and Sellers, Representative Offices and Mortgage Lenders and Brokers; Due Dates" adopted. F. July 14, 1998; eff. August 3, 1998.

Amended: F. Dec. 18, 2000; eff. Jan. 7, 2001.

Amended: Rule retitled "License, Registration and Supervision Fees for Check Cashers and Sellers, Money Transmitters, Representative Offices and Mortgage Lenders and Brokers; Due Dates". F. July 28, 2003; eff. August 17, 2003.

Amended: F. Sept. 1, 2004; eff. Sept. 21, 2004.

Amended: F. Aug. 15, 2005; eff. Sept. 4, 2005.

Amended: F. Aug. 22, 2006; eff. Sept. 11, 2006.

Amended: F. Aug. 15, 2007; eff. Sept. 4, 2007.

Amended: F. Aug. 4, 2008; eff. Aug. 24, 2008.

Amended: F. Dec. 15, 2008; eff. Jan. 4, 2009.

Amended: F. Aug. 17, 2009; eff. Sept. 6, 2009.

Amended: F. Aug. 2, 2011; eff. Aug. 22, 2011.

Amended: Title changed to "License and Supervision Fees for Check Cashers, Payment Instrument Sellers, Money Transmitters, Representative Offices and Mortgage Lenders and Brokers; Due Dates." F. June 10, 2014; eff. June 30, 2014.

Amended: F. Aug. 29, 2014; eff. Sept. 18, 2014.

Amended: F. Dec. 5, 2014; eff. Dec. 25, 2014.

Amended: F. June 15, 2015; eff. July 5, 2015.

Amended: F. June 20, 2016; eff. July 10, 2016.

Amended: New title "License and Supervision Fees for Check Cashers, Payment Instrument Sellers, Money Transmitters, Representative Offices, Mortgage Lenders, Mortgage Brokers, and Installment Lenders; Due Dates." F. Aug. 19, 2020; eff. Sept. 8, 2020.

Amended: F. Jan. 8, 2021; eff. Jan. 28, 2021.

Amended: F. July 7, 2022; eff. July 27, 2022.

Amended: New title, "License and Supervision Fees for Check Cashers, Money Transmitters, Representative Offices, Mortgage Lenders, Mortgage Brokers, Mortgage Loan Originators, and Installment Lenders; Due Dates." F. July 7, 2023; eff. July 27, 2023.

Amended: F. Dec. 20, 2024; eff. Jan. 9, 2025.

80-5-1-.08 Repealed and Reserved

Cite as Ga. Comp. R. & Regs. R. 80-5-1-.08

AUTHORITY: O.C.G.A. § 7-1-61**.**

HISTORY: Original Rule entitled "Levy, Collection, and Remittance of Tax on Interest Paid to Installment Lenders" adopted. F. Aug. 19, 2020; eff. Sept. 8, 2020.

Amended: New title, "Collection and Remittance of Per Loan Fee on Loans Made by Installment Lenders Through June 30, 2022." F. July 7, 2022; eff. July 27, 2022.

Repealed: F. Dec. 20, 2024; eff. Jan. 9, 2025.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-7. FOREIGN BANKING AND INTERNATIONAL BANKING FACILITIES

Subject 80-7-1. GEORGIA STATE BRANCHES, GEORGIA STATE AGENCIES, AND GEORGIA STATE REPRESENTATIVE OFFICES OF FOREIGN BANKS

80-7-1-.01 Scope

This rule chapter applies to all Georgia state branches, Georgia state agencies and Georgia state representative offices of foreign banks. Nothing in the Department's rules relieves a Georgia state branch, Georgia state agency or Georgia state representative office from complying with requirements that are imposed by the FRB under Regulation K (12 CFR part 211) or otherwise imposed in accordance with applicable federal or Georgia law or regulation.

Cite as Ga. Comp. R. & Regs. R. 80-7-1-.01

AUTHORITY: O.C.G.A. §§ 7-1-61**;** 7-1-1109.

HISTORY: Original Rule entitled "Definitions." was filed on October 15, 1981; effective November 4, 1981.

Amended: New title, "Scope." F. Dec. 20, 2024; eff. Jan. 9, 2025.

80-7-1-.02 Definitions

(1) For purposes of this rule chapter, the following terms have the meanings assigned to them by O.C.G.A. § 7-1-1100: "affiliate", "agency", "bank", "bank supervisory agency", "branch" (when used in reference to an office of a foreign bank), "control", "deposit", "depository institution", "federal agency", "federal branch", "foreign bank", "functional regulatory agency", "Georgia state agency", "Georgia state bank", "Georgia state branch", "Georgia state representative office", "home state", "insolvency", "International Banking Act", "national bank", "office of a foreign bank", "out-of-state foreign bank", "representative office" (when used in reference to an office of a foreign bank), "state", "state bank", "subsidiary", and "United States."

(2) For purposes of this rule chapter, the following terms shall have the meanings assigned to them below:

(a) "Approved Depository" has the meaning assigned in Rule 80-7-1-.11(a).

(b) "Commissioner" means the commissioner of the Department.

(c) "Department" means the Department of Banking and Finance.

(d) "Establish a Georgia state branch, Georgia state agency or Georgia state representative office" means to:

1. Open and conduct permitted business through an initial or additional Georgia state branch or Georgia state agency, or open and engage in permitted representative activities at a Georgia state representative office;

2. Acquire directly or indirectly through merger, consolidation, or similar transaction with another foreign bank, the operations of a Georgia state branch or Georgia state agency that is open and conducting business or, in the case of a Georgia state representative office, engaging in representative activities in Georgia permitted for a Georgia state representative office;

3. Acquire a Georgia state branch, Georgia state agency or Georgia state representative office through the acquisition of a foreign bank that will cease to operate in the same corporate form following the acquisition;

4. Convert a federal branch or federal agency operated by a foreign bank in Georgia controlled by a foreign bank, into a Georgia state branch, a Georgia state agency or a Georgia state representative office;

5. Convert a loan production, deposit production, or trust representative office operated in Georgia by a federal branch of foreign bank, which is not located in Georgia, into a Georgia state branch, a Georgia state agency or a Georgia state representative office;

6. Relocate a foreign bank state branch, state agency or state representative office from another state to Georgia, through the establishment of a Georgia state branch, Georgia state agency, or Georgia state representative office and a transfer of assets and/or liabilities to the new Georgia location or by other means; or

7. Convert a Georgia state agency or Georgia state representative office to a higher class of Georgia state foreign bank office, in accordance with O.C.G.A. §§ 7-1-1107 and 7-1-1111.

(e) "FDIC" means the Federal Deposit Insurance Corporation.

(f) "Foreign business" means any entity, including, but not limited to, a corporation, limited liability company, partnership, sole proprietorship, association, foundation, trust, or similar entity that is organized under the laws of a foreign country, or any United States entity that is controlled by a foreign entity or foreign national.

(g) "Foreign country" means one or more nations other than the United States, and includes the overseas territories, dependencies, and insular possessions of those nations and of the United States (including the Commonwealth of Puerto Rico).

(h) "FRB" means the Board of Governors of the Federal Reserve System.

(i) "Highly rated foreign bank" has the meaning assigned in Rule 80-7-1-.12.

(j) "Home country" means the foreign country in which the foreign bank is chartered or incorporated.

(k) "Home country supervisor" means the governmental entity or entities in the foreign bank's home country responsible for supervising and regulating the foreign bank.

(l) "International banking facility" means a set of asset and liability accounts segregated on the books and records of a depository institution, Georgia state branch or Georgia state agency of a foreign bank.

(m) "Managed" by a Georgia state branch or Georgia state agency means that a majority of the responsibility for business decisions, including decisions with regard to lending, asset management, funding, or liability management, or the responsibility for recordkeeping of assets or liabilities for a non-United States office, resides at the Georgia state branch or Georgia state agency. For purposes of this definition, forwarding data or information of offshore operations gathered or compiled by the United States office in the normal course of business to the foreign bank or its affiliates does not constitute recordkeeping.

(n) "NRSRO" means a Nationally Recognized Statistical Rating Organization designated by the federal Securities and Exchange Commission

(o) "OCC" means the federal Office of the Comptroller of the Currency.

(p) "Foreign bank senior management" means individuals at the executive level of the foreign bank who are responsible for supervising and authorizing activities of the Georgia state branch, Georgia state agency or Georgia state representative office.

(q) "Person" means an individual or a corporation, government, limited liability company, partnership, association, or any other entity.

(r) "Permitted Pledged Assets" has the meaning assigned in Rule 80-7-1-.11(b).

(s) "Pledged Assets" has the meaning assigned in Rule 80-7-1-.11(a).

Cite as Ga. Comp. R. & Regs. R. 80-7-1-.02

AUTHORITY: O.C.G.A. §§ 7-1-61**;** 7-1-1109**.**

HISTORY: Original Rule entitled "Status of Georgia Institutions." was filed on October 15, 1981; effective November 4, 1981.

Amended: New title, "Definitions." F. Dec. 20, 2024; eff. Jan. 9, 2025.

80-7-1-.03 Approval of a Georgia State Branch, Georgia State Agency, or Georgia State Representative Office

(1) Approval and licensing requirements -

(a) General. Except as otherwise provided in this Rule, a foreign bank shall submit an application to and obtain prior approval from the Department before it:

(i) establishes a Georgia state branch or a Georgia state agency; or

(ii) establishes a Georgia state representative office.

(b) Licensing. A foreign bank must receive a license from the Department to establish a Georgia state branch, Georgia state agency or Georgia state representative office.

(c) Classes of Georgia state offices. Consistent with O.C.G.A. § 7-1-1107, offices of foreign banks in this state shall be divided into classes and ranked in descending order as a:

(i) Georgia state branch;

(ii) Georgia state agency; and

(iii) Georgia state representative office.

Changes to the class of Georgia offices made by a foreign bank shall be made pursuant to and in accordance with O.C.G.A. §§ 7-1-1107 and 7-1-1111, and these rules.

(2) Application procedures for Georgia state branch or Georgia state agency. Without limiting the powers and authority of the Department under O.C.G.A. §§ 7-1-1107, 7-1-1111, 7-1-1112, 7-1-1113 or other applicable law and unless an alternative procedure is set forth in this Rule, an application submitted to the Department under this Rule to establish a Georgia state branch or Georgia state agency shall:

(a) Be in letter format or in an application form specified by the Department;

(b) Be signed and acknowledged by a member of the foreign bank senior management; and

(c) Include and address all requirements in O.C.G.A. § 7-1-1111, including without limitation the foreign bank's notice or application to the FRB, as well as all other information that is requested by the Department.

(3) Standards for approval of Georgia state branches and Georgia state agencies. In reviewing an application by a foreign bank to establish a Georgia state branch or Georgia state agency (including applications under O.C.G.A. § 7-1-1107 and this Rule to change an existing office into a higher class office), the Department shall make the determinations required by O.C.G.A. § 7-1-1113. The Department shall also consider whether the applicant foreign bank maintains a federal branch or federal agency in this state and, if it does so, the Department shall not approve an application to maintain a Georgia state branch or Georgia state agency, as required by O.C.G.A. § 7-1-1115.

(4) Application procedures for Georgia state representative office. Unless an alternative procedure is set forth in this Rule, an application submitted to the Department under this Rule to establish a Georgia representative office shall:

(a) Be in letter format or in an application form specified by the Department;

(b) Be signed and acknowledged by a member of the foreign bank senior management; and

(c) Include and address all requirements in O.C.G.A. §§ 7-1-1131, including without limitation the foreign bank's notice or application to the FRB (if required by the FRB in connection with the office), as well as all other information that is requested by the Department.

(5) Standards for approval of Georgia state representative offices. In reviewing an application by a foreign bank to establish a Georgia state representative office under O.C.G.A. § 7-1-1131, the Department shall make the determinations set forth in this subsection (5). Determinations (a) through (c) shall apply, and determinations (d) through (l) shall not apply, to a foreign bank that is establishing the Georgia state representative office under and in accordance with the FRB's "general consent" authority at 12 CFR part 211. Determinations (a) through (l) shall apply to all other foreign bank applicants for a Georgia state representative office.

(a) The foreign bank engages directly in the business of banking outside of the United States and the FRB has concluded the foreign bank is subject to comprehensive supervision or regulation on a consolidated basis by the home country supervisor or determined that comprehensive supervision or regulation is not required but the foreign bank's application is otherwise subject to approval;

(b) The foreign bank has furnished to the Department the information it needs to act on the application;

(c) The home country supervisor has consented to the proposed establishment of the Georgia state representative office by the foreign bank;

(d) The managerial resources of the foreign bank, including the foreign bank's experience and capacity to engage in international banking, are sufficient to enable the Georgia state representative office to operate in accordance with safe and sound banking practices;

(e) The foreign bank has provided the Department with adequate assurances that the bank will make available to the Department such information on the operations or activities of the foreign bank and any affiliate of the bank that the Department deems necessary to determine and enforce compliance with state law, the International Banking Act, and other applicable federal law;

(f) The foreign bank is in substantial compliance with applicable federal and state law, as determined by the Department;

(g) The financial resources of the foreign bank, including the foreign bank's capital position, projected capital position, profitability, level of indebtedness, and future prospects, are sufficient to enable the Georgia state representative office to operate in accordance with safe and sound banking practices;

(h) The directors, executive officers, and principal shareholders of the foreign bank are qualified by reason of their financial experience, reputation, and integrity and have sufficient banking and other business experience to indicate that they will manage and direct the affairs of the foreign bank in accordance with safe and sound banking practices;

(i) The natural person who shall be in charge of the business and affairs of the Georgia state representative office is of sufficient banking experience, ability, standing, competence, trustworthiness, and integrity to justify a belief that the Georgia state representative office will operate in compliance with state law, the International Banking Act, and other applicable federal law;

(j) The establishment is not otherwise prohibited by applicable federal law;

(k) The foreign bank has sufficient standing to justify a belief the Georgia state representative office will be free from improper or unlawful influence or interference with respect to the operation of the Georgia state representative office in compliance with state law; and

(l) The foreign bank is acting in good faith and the application does not contain a material misrepresentation.

Without limiting this subsection (5), the Department may deny an application for a Georgia state representative office in accordance with O.C.G.A. §§ 7-1-1134. The Department may waive, in whole or in part, any of the determinations listed in this subsection on a case-by-case basis based on the specific facts and circumstances relating to the proposed Georgia state representative office or the foreign bank.

(6) Expedited review. Unless the Department concludes that the filing presents significant supervisory or compliance concerns, or raises significant legal or policy issues, the Department generally processes the following filings under expedited review procedures:

(a) Notification for relocation of a Georgia state branch, Georgia state agency, or Georgia state representative office: When a foreign bank seeks to relocate a Georgia state branch, Georgia state agency, or Georgia state representative office, the foreign bank shall submit a notification not less than 30 days in advance of the proposed date for the relocation. The Department may waive this 30-day period if immediate action is required. The Department also may require an application if the notification raises significant policy or supervisory concerns.

(b) Notification for an additional intrastate Georgia state branch or Georgia state agency or Georgia state representative office: When a foreign bank seeks to establish an additional intrastate Georgia state branch, Georgia state agency or Georgia state representative office, the foreign bank shall submit a notification not less than 30 days in advance of the establishment of the intrastate Georgia branch, agency or representative office. The Department may waive this 30-day period if immediate action is required. The Department also may require an application if the notification raises significant policy or supervisory concerns.

(c) Conversion of federal branch or agency: An application submitted by a highly rated foreign bank to establish a Georgia state branch or Georgia state agency through the conversion of an existing federal branch or federal agency in this state is deemed approved by the Department as of the 30th day after the Department accepts the application, unless the Department notifies the foreign bank prior to that date that the filing is not eligible for expedited review. In performing its review, the Department generally shall apply the standards for state branch and state agency applications under O.C.G.A. § 7-1-1113.

(d) Other expedited filings: Any other application submitted by a highly rated foreign bank may be approved by the Department on an expedited basis as determined by the Department in writing on a case-by-case basis.

(7) After-the-fact approval for acquisitions, mergers, consolidations. Unless otherwise provided by the Department in this Rule or otherwise, a foreign bank proposing to establish a Georgia state branch, Georgia state agency, or Georgia state representative office through the acquisition of, or merger or consolidation with, a foreign bank that has a Georgia state branch, Georgia state agency, or Georgia state representative office, may proceed with the transaction before an application to establish the Georgia state branch, Georgia state agency, or Georgia state representative office has been filed or acted upon, if the applicant:

(a) Gives the Department reasonable advance notice of the proposed acquisition, merger, or consolidation;

(b) Prior to consummation of the acquisition, merger, or consolidation, commits in writing to comply with the Department's application procedures and standards and submits an application within 14 days following the Department's receipt and acceptance of such written commitment, or has already submitted an application; and

(c) Commits in writing to abide by the Department's decision on the application, including a decision up to and including an order to terminate activities of the Georgia state branch, Georgia state agency, or Georgia state representative office.

(8) After-the-fact notice for a highly rated foreign bank. Unless otherwise provided by the Department, a foreign bank proposing to establish a Georgia state branch or Georgia state agency through the acquisition of, or merger or consolidation with, a foreign bank that has a Georgia state branch or Georgia state agency may proceed with the transaction and provide after-the-fact notice to the Department within 14 days of the transaction, if the resulting bank is a highly-rated foreign bank. Notwithstanding the after-the-fact notice contemplated by this paragraph, the resulting bank shall provide such information as requested by the Department following the Department's receipt of the after-the-fact notice, and shall abide by any subsequent Department orders with respect to the transaction, up to and including an order to terminate activities of the Georgia state branch, Georgia state agency or Georgia state representative office.

(9) Procedures for approval. The Department reserves the right to adopt materially different procedures for a particular filing or class of filings subject to this Rule, as determined by the Department in writing on a case-by-case basis or in accordance with procedures published by the Department.

(10) Other applications accepted. The Department may accept an application or other filing submitted to the FRB or another U.S. Government or state agency that covers the proposed activity or transaction and contains substantially the same information as required by the Department.

Cite as Ga. Comp. R. & Regs. R. 80-7-1-.03

AUTHORITY: O.C.G.A. §§ 7-1-61**;** 7-1-1109**.**

HISTORY: Original Rule entitled "Applications and Registrations." was filed on October 15, 1981; effective November 4, 1981.

Amended: New title, "Approval of a Georgia State Branch, Georgia State Agency, or Georgia State Representative Office." F. Dec. 20, 2024; eff. Jan. 9, 2025.

80-7-1-.04 Permissible Activities

(1) Applicability of laws -

(a) General. As provided in O.C.G.A. § 7-1-1106, except as otherwise provided by the International Banking Act, other Federal laws or regulations, other state laws or regulations, or otherwise determined by the Department, the operations of a foreign bank at a Georgia state branch, Georgia state agency, or Georgia state representative office shall be conducted with the same rights and privileges and subject to the same duties, restrictions, penalties, liabilities, conditions, and limitations that would apply if the Georgia state branch, Georgia state agency, or Georgia state representative office were a Georgia state bank operating at the same location.

(b) Foreign bank senior management approval. Unless otherwise provided by the Department, any provision in law, regulation, policy, or procedure that requires a Georgia state bank to obtain the approval of its board of directors will be deemed to require a Georgia state branch or Georgia state agency to obtain the approval of foreign bank senior management.

(2) Management of shell branches - Georgia state branches and Georgia state agencies. A Georgia state branch or Georgia state agency of a foreign bank shall not manage, through an office of the foreign bank that is located outside

the United States and that is managed or controlled by that Georgia state branch or Georgia state agency, any type of activity that a United States bank is not permitted to manage at any branch or subsidiary of the United States bank that is located outside the United States. United States procedural or quantitative requirements that may be applicable to the conduct of those activities by United States banks do not apply.

(3) Additional guidance regarding permissible activities. For purposes of O.C.G.A. § 7-1-1101(c), the Department may issue opinions, interpretations, or rulings regarding the permissible business activities of Georgia state branches and Georgia state agencies may engage in, and the representative activities a Georgia state representative office may engage in.

Cite as Ga. Comp. R. & Regs. R. 80-7-1-.04

AUTHORITY: O.C.G.A. §§ 7-1-61**;** 7-1-1109**.**

HISTORY: Original Rule entitled "Interpretations." was filed on October 15, 1981; effective November 4, 1981.

Amended: New title, "Permissible Activities." F. Dec. 20, 2024; eff. Jan. 9, 2025.

80-7-1-.05 Additional Authorized Activities

(1) General. A Georgia state branch or Georgia state agency shall not engage in any activity not authorized under O.C.G.A. § 7-1-1116 except as authorized by the Department in accordance with this rule.

(2) Request. A Georgia state branch or Georgia state agency may request the Department to determine whether an activity that is not otherwise authorized for the Georgia state branch or Georgia state agency should be authorized by the Department by rule or regulation under O.C.G.A. § 7-1-1116(c)(12)(A), or should be determined by the Department under O.C.G.A. § 7-1-1116(c)(12)(C) to be analogous or incidental to specific activities authorized by O.C.G.A. § 7-1-1116. At a minimum, the application shall:

(a) Be in letter format; be signed and acknowledged by a member of senior management of the foreign bank; if applicable, be submitted simultaneously with the federal notice or application to the FRB and include a complete copy of that notice or application;

(b) Describe in detail the proposed activity or activities; the names and relevant expertise of its officers and employees who will conduct the activities; and the manner in which the activities will be captured in the books and records of the Georgia state branch or Georgia state agency with due regard for separation of beneficial and legal interests;

(c) Describe in detail whether the activity is (i) permitted by the OCC for a foreign bank federal branch or agency and, if so, provide supporting information including copies of the authorizing document and identify all regulatory conditions, limitations and other requirements imposed by the OCC relating to the proposed activity; or (ii) not permitted by the OCC for a foreign bank federal branch or agency but has been permitted by a state banking agency and the FRB, and, if so, provide supporting information including copies of the authorizing document or documents and identify all regulatory conditions, limitations and other requirements imposed by the state or FRB relating to the proposed activity; and

(d) Include an analysis of the impact of the proposed activity on the condition of the operations of the Georgia state branch or Georgia state agency, including a copy, if available, of any feasibility study, management plan, financial projections, business plan, risk assessment, compliance plan, or similar documents concerning the conduct of the activity.

Cite as Ga. Comp. R. & Regs. R. 80-7-1-.05

AUTHORITY: O.C.G.A. §§ 7-1-61**;** 7-1-1109**.**

HISTORY: Original Rule entitled "Operating Restrictions." was filed on October 15, 1981; effective November 4, 1981.

Amended: New title, "Additional Authorized Activities." F. Dec. 20, 2024; eff. Jan. 9, 2025.

80-7-1-.06 Limitations Based Upon Capital of a Foreign Bank; Loans to One Borrower

(1) General. Any limitation or restriction based upon the capital of a Georgia state bank shall be deemed to refer, as applied to a Georgia state branch or Georgia state agency, to the dollar equivalent of the capital of the foreign bank.

(2) Calculation. Unless otherwise provided by the Department, a foreign bank must calculate its capital in a manner consistent with 12 CFR part 3, subpart C, for purposes of this Rule.

(3) Limitation on loans to one borrower; Aggregation. In determining the compliance of a foreign bank with the loan to one borrower limitations set forth in O.C.G.A. § 7-1-285 and any related rules promulgated by the Department, the total loans and extensions of credit by all Georgia state branches and Georgia state agencies of a foreign bank outstanding to a single borrower at one time shall be aggregated with the total loans and extensions of credit by all other United States state and federal branches and state and federal agencies of the same foreign bank outstanding to the same borrower at the time in the same manner that extensions of credit by a federal branch or federal agency are subject to section 4(b) of the International Banking Act (12 U.S.C. § 3102(b)) as if such state branches and state agencies were federal branches and federal agencies. The foreign bank shall designate one Georgia state branch or Georgia state agency office to maintain consolidated information so that the Department can monitor compliance.

Cite as Ga. Comp. R. & Regs. R. 80-7-1-.06

AUTHORITY: O.C.G.A. §§ 7-1-61**;** 7-1-1109.

HISTORY: Original Rule entitled "Lockbox Operations Involving Banks Domiciled Outside of Georgia." was filed December 3, 1985; effective December 23, 1985.

Amended: F. Sept. 23, 1993; eff. Oct. 13, 1993.

Repealed: F. July 7, 2022; eff. July 27, 2022.

Adopted: New Rule entitled "Limitations Based Upon Capital of a Foreign Bank; Loans to One Borrower." F. Dec. 20, 2024; eff. Jan. 9, 2025.

80-7-1-.07 Deposit Taking by a Georgia State Branch

(1) Policy. In carrying out this Rule, the Department shall consider the importance of according foreign banks competitive opportunities equal to those of United States banks and the availability of credit to all sectors of the Georgia state economy, including international trade finance.

(2) General. A Georgia state branch may only accept deposits subject to the limitations and requirements established by applicable federal law, including, but not limited to, 12 U.S.C. § 3104 and 12 C.F.R. 28.16.

(3) Notification to depositors. A Georgia state branch that accepts deposits shall provide notice to depositors that their deposits are not insured by the FDIC. Without limiting the preceding sentence, each such Georgia state branch shall include a statement that the deposit accounts are not FDIC-insured, which statement shall be clear, concise and conspicuous:

(a) on a sign displayed at any Georgia state branch that accepts deposits;

(b) on each deposit agreement and other document evidencing a deposit;

(c) on each customer deposit account statement;

(d) on each advertisement for a Georgia state branch deposit account; and

(e) on any digital deposit-taking channel relating to a Georgia state branch.

(4) FDIC insurance representations. No Georgia state branch shall engage in any practice, or use any symbol, that:

(a) Represents, expressly or by implication, that any deposit liability, obligation, certificate, or share is FDIC-insured by using the FDIC's name or logo;

(b) Represents, expressly or by implication, that any deposit liability, obligation, certificate, or share is insured by the FDIC if such an item is not so insured;

(c) Represents, expressly or by implication, the extent to which or the manner in which any deposit liability, obligation, certificate, or share is insured by the FDIC, if such an item is not insured to the extent or manner represented;

(d) States or implies that deposit obligations of the Georgia state branch are backed or guaranteed by any public body, including the state of Georgia or any of its instrumentalities, or the United States federal government or any federal agency; or

(e) Aids or abets another in any of the foregoing listed in paragraphs (a) through (d) of this subsection (4).

Cite as Ga. Comp. R. & Regs. R. 80-7-1-.07

AUTHORITY: O.C.G.A. §§ 7-1-61**;** 7-1-1109**.**

HISTORY: Original Rule entitled "Deposit Taking by a Georgia State Branch" adopted. F. Dec. 20, 2024; eff. Jan. 9, 2025.

80-7-1-.08 Notice of Change in Activity or Operations

A Georgia state branch, Georgia state agency, or Georgia state representative office shall notify the Department not less than ten (10) calendar days in advance of the effective date of the action (except when not reasonably practicable due to exigent circumstances) if:

(a) Title. It changes its corporate title;

(b) Address. It changes its mailing address or email address for communications with the Department;

(c) Conversion. In the case of a Georgia state branch or Georgia state agency, it converts to a federal branch or federal agency;

(d) Home state. In the case of a Georgia state branch or Georgia state agency, the foreign bank changes the designation of its home state;

(e) Change of Management. It changes the designated head of the Georgia state branch, Georgia state agency, or Georgia representative office in question; or

(f) Other material change. It changes the business and operations of the Georgia state branch, Georgia state agency, or Georgia representative office in question in a material way.

Notwithstanding the above notification provisions, upon review of a notice but prior to the effective date of the action, the Department may require an application if the notification raises significant policy or supervisory concerns.

Cite as Ga. Comp. R. & Regs. R. 80-7-1-.08

AUTHORITY: O.C.G.A. §§ 7-1-61**;** 7-1-1109**.**

HISTORY: Original Rule entitled "Notice of Change in Activity or Operations" adopted. F. Dec. 20, 2024; eff. Jan. 9, 2025.

80-7-1-.09 Recordkeeping and Reporting

(1) General. A Georgia state branch, Georgia state agency, and Georgia state representative office shall comply with the record keeping requirements in O.C.G.A. § 7-1-1102, all other applicable recordkeeping and reporting requirements that apply to Georgia state banks, and with any additional requirements that may be prescribed by the Department. A Georgia state branch, Georgia state agency, Georgia state representative office, and the foreign bank, shall furnish information relating to the affairs of the foreign bank and its affiliates that the Department may from time to time request.

(2) Regulatory reports filed with other agencies. A foreign bank operating a Georgia state branch, Georgia state agency, or Georgia state representative office shall provide the Department with a comprehensive listing of reports filed with federal and other Georgia state regulatory agencies that are specific and limited to the Georgia office in question, together with a general summary description of the contents of each report. This listing shall be provided by the foreign bank within 30 days following a request from the Department, or otherwise with such frequency and in such a format as may be specified by procedures established by the Department. The Department shall advise the foreign bank from time to time as to which of the reports identified by the foreign bank shall be provided to the Department, with such reports to be provided to the Department concurrently with or reasonably concurrently with the provision of the report to the federal or other Georgia state regulatory agency. If the foreign bank concludes in good faith that the sharing of a report with the Department would be in violation of applicable law or regulations, the foreign bank shall notify the Department in writing. A notice provided to the Department under this subsection (2) shall include a description of the federal or Georgia report that is not being provided to the Department (to the extent not inconsistent with applicable federal and Georgia law), as well as an explanation of the reasons the report is not being provided.

(3) Maintenance of accounts, books, and records.

(a) Each Georgia state branch or Georgia state agency shall maintain a set of accounts, books and records which reflect its transactions and operations that are separate from those of the foreign bank and any other branch or agency. The Georgia state branch or Georgia state agency shall keep a set of accounts, books and records in English sufficient to permit the Department to examine the condition of the Georgia state branch or agency and its compliance with applicable laws and regulations.

(b) A Georgia state representative office shall keep records in English sufficient to permit the Department to examine the Georgia state representative office and its compliance with applicable laws and regulations.

(c) Each Georgia state branch, Georgia state agency, or Georgia state representative office shall promptly provide any additional records requested by the Department for examination or supervisory purposes. All documents shall be provided to the Department in English and, where the document has been translated to English, shall be translated consistent with translation standards and certifications (if any) as directed or requested by the Department.

(d) A foreign bank with more than one Georgia state branch or Georgia state agency shall designate one of those offices to maintain consolidated asset pledge accounts for all Georgia state branches or Georgia state agencies.

(4) Record of liabilities and assets. Except as provided in subsection (6) of this Rule, every foreign bank licensed to maintain one or more Georgia state branches or Georgia state agencies shall maintain a record of the liabilities of the

foreign bank appearing in the books, accounts and records of those offices in Georgia as liabilities of such Georgia state branch or branches or Georgia state agency or agencies as of the close of business in accordance with Rule 80-7-1-.11. The record shall be retained for the longer of (a) five years, (b) such period of time otherwise specified by applicable federal or state law or regulation, or (c) until the conclusion of the next examination of the Georgia state branch or Georgia state agency by the Department and the issuance by the Department of the related examination report. A foreign bank authorized to maintain more than one Georgia state branch or Georgia state agency shall maintain the records on a Georgia state branch or Georgia state agency on an office-by-office basis, unless the Department has authorized maintenance on a consolidated basis for the Georgia state branch and Georgia state agency offices, and provided that nothing in such authorization shall limit any requirements under federal law for each Georgia state branch or Georgia state agency to maintain records on a branch or agency office-by-office basis. While no specific format for the record is prescribed by this Rule, the record shall contain such information in sufficient detail as will permit ready verification of its accuracy by the Department.

(5) Records of Pledged Assets. Each foreign bank licensed to maintain one or more Georgia state branch or Georgia state agency shall maintain, in addition to the record required to be maintained by subsection (4) of this Rule, an itemized record of pledged assets for the account of the Department pursuant to O.C.G.A. § 7-1-1123 and Rule 80-7-1-.11. The record shall include the then value of pledged assets, at the lower of the then amortized cost or the then current fair value.

(6) Report of Pledged Assets. Each foreign bank licensed to maintain one or more Georgia state branch or Georgia state agency shall, in a form and at an interval to be prescribed by the Department, prepare a report showing the pledged assets pursuant to O.C.G.A. § 7-1-1123 and section Rule 80-7-1-.11 and the calculation of the pledge required under Rule 80-7-1-.11.

(7) Suspicious Activities. Every Georgia state branch, Georgia state agency, and Georgia state representative office must comply with federal requirements regarding sanctions, and for detecting and reporting suspicious activities. A copy of any suspicious activity report filed by a Georgia state branch, a Georgia state agency, or as Georgia state representative office shall be provided to the Department upon request.

(8) Authentication of Records and Reports. The records required to be maintained by subsections (4) and (5) and the report required by subsection (6) of this Rule shall be authenticated by the signature of a duly authorized officer of the Georgia state branch or Georgia state agency.

(9) International banking facility. Unless specifically exempted by the Department, the eligible assets and liabilities of any international banking facility operated through the Georgia state branch or agency must be included in the computation of eligible assets and liabilities for purposes of Rule 80-7-1-.11.

Cite as Ga. Comp. R. & Regs. R. 80-7-1-.09

AUTHORITY: O.C.G.A. §§ 7-1-61**;** 7-1-1109**.**

HISTORY: Original Rule entitled "Recordkeeping and Reporting" adopted. F. Dec. 20, 2024; eff. Jan. 9, 2025.

80-7-1-.10 Voluntary Closure of State Representative Offices-Procedures

In cases in which a foreign bank proposes to close any or all of its Georgia state representative offices, the foreign bank shall provide the Department with written notice not less than 30 calendar days before the date of the proposed closure. The notice by a foreign bank regarding a representative office shall be in such form and include such information as the Department requires.

Cite as Ga. Comp. R. & Regs. R. 80-7-1-.10

AUTHORITY: O.C.G.A. §§ 7-1-61**;** 7-1-1109**.**

HISTORY: Original Rule entitled "Voluntary Closure of State Representative Offices--Procedures" adopted. F. Dec. 20, 2024; eff. Jan. 9, 2025.

80-7-1-.11 Pledged Assets

(1) Pledged Assets requirement, valuation, approved depositories -

A foreign bank licensed to establish and maintain a Georgia state branch or Georgia state agency shall be required to pledge to the Department money and securities (the "pledged assets") in an aggregate amount as specified in this Rule. The pledged assets shall be valued at the lower of the then amortized cost amount or the then current fair value, and shall consist of permitted pledged assets. The pledged assets shall be deposit obligations of, or assets custodied with, a state or federal FDIC-insured depository not affiliated with the foreign bank and with a primary or branch office located in Georgia (each such institution being referred to in these rules as an "approved depository").

(2) Permitted Pledged Assets. Permitted pledged assets shall consist of and be limited to the following:

(a) United States dollar deposits at one or more FDIC-insured depositories not affiliated with the foreign bank and with a primary or branch office located in Georgia, provided that in any case where the deposited amounts exceed or may exceed the then applicable limits of FDIC insurance (as aggregated in accordance with FDIC rules), the depository has an adequate capacity to meet financial commitments for the uninsured deposit exposure. A depository has an adequate capacity to meet financial commitments if the risk of failure of the depository is low and the full and timely repayment of deposit principal and interest is expected. The foreign bank must analyze, support and document (in English) the adequate capacity of a depository as required by this paragraph and make that documentation available for review by the Department;

(b) Bonds, notes, debentures, or other legally created, general obligations of a state, an agency or political subdivision of a state, the United States, or an instrumentality of the United States;

(c) Securities that this state, an agency or political subdivision of this state, the United States, or an instrumentality of the United States has unconditionally agreed to purchase, insure, or guarantee;

(d) Certificates of deposit, payable in the United States, and banker's acceptances, provided that, in each case, the issuer has an adequate capacity to meet financial commitments for the projected life of the asset or exposure. An issuer has an adequate capacity to meet financial commitments if: (i) the obligation is fully insured by the FDIC in accordance with FDIC rules; or (ii) the risk of default by the obligor is low and the full and timely repayment of principal and interest is expected. For obligations not fully insured by the FDIC in accordance with FDIC rules, the foreign bank must analyze, support and document (in English) the adequate capacity of an issuer and make that documentation available for review by the Department. Each certificate of deposit or bankers' acceptance must be issued by an unaffiliated depository institution or a United States office of an unaffiliated foreign bank;

(e) Repurchase agreements;

(f) Commercial paper, provided such paper is accorded the highest or second highest rating of a NRSRO, and further provided that the commercial paper of any one issuer or group of affiliated issuers shall not constitute more than 10% of the pledged assets and that the total of all commercial paper shall not constitute more than 25% of the pledged assets at any one time. In the event that an issue of commercial paper is rated by more than one NRSRO, it must have the highest or second highest rating of each.

(3) Amount of Pledged Assets. Except as provided for highly rated foreign banks in Rule 80-7-1-.12, the aggregate amount of pledged assets for each Georgia state branch or Georgia state agency established and operating under O.C.G.A. § 7-1-1123 shall be not less than the greater of:

(a) (i) That amount of capital which would be required of a Georgia state bank under O.C.G.A. § 7-1-410; or

(ii) One percent of the total liabilities of such Georgia state branch or Georgia state agency, including acceptances, but excluding accrued expenses and amounts due and other liabilities to affiliates, offices, branches, agencies, and subsidiaries of such foreign bank. This amount shall be calculated based on the average total liabilities for the previous calendar month of such Georgia state branch or branches or Georgia state agency or agencies. The amount shall include the liabilities of an international banking facility maintained by such Georgia state branch or branches or Georgia state agency or agencies of such foreign bank.

(b) A foreign bank opening its initial Georgia state branch or Georgia state agency shall maintain, for its first year of operations, pledged assets based upon the Georgia state branch's or Georgia state agency's projection of total liabilities at the end of its first year of operation.

(c) Except as otherwise provided in these rules, calculation of liabilities of Georgia state branches and Georgia state agencies shall be in accordance with the instructions in the FFIEC 002 Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (call report). The calculation of pledged assets shall be on the same basis on which quarterly averages are calculated for call report purposes (for example, based on current requirements, the average of liabilities subject to the pledged asset requirements as of the close of business on the weekdays during the previous month as specified by the FFIEC 002 instructions). The value of the amount of the pledged assets, calculated in accordance with the requirements of these rules, must equal the required value under these rules by the close of business on the fifth business day immediately following the end of the monthly period for which the calculation is made.

(4) Additional Pledged Asset conditions and limitations. The amount of pledged assets under O.C.G.A. § 7-1-1123 shall be subject to: (i) the conditions and limitations as the Department may consider to be necessary or desirable for the maintenance of a sound financial condition; (ii) the protection of depositors, creditors, and the public interest in this state; and (iii) the support of public confidence in the business of the Georgia state branch or Georgia state agency. Without limiting the authority of the Department under the prior sentence, the following conditions and limitations shall apply to the pledged assets unless the Department specifically permits otherwise:

(a) All pledged assets must be payable in the United States in United States' dollars.

(b) Each pledged asset shall be held in such form or subject to such conditions as the Department may prescribe. The Department may expressly disallow one or more otherwise eligible pledged asset, either for all institutions or for specific institutions. All pledged assets shall be subject to any additional conditions or limitations as determined by the Department with respect to such assets The balance of any other pledged asset or pledged asset category disallowed at the preceding examination or by direction of the Department for any other reason shall be ineligible for use as a pledged asset until the underlying reasons for the disallowance have been removed, and the Department has confirmed in writing that the pledged asset is no longer disallowed.

(c) All amounts due from the home office, other offices and affiliates of the foreign bank, including income accrued but uncollected on such amounts, shall be ineligible for use as a pledged asset, except that upon a letter application to the Department and the Department's prior written approval, all amounts due from other offices located within the United States shall be considered eligible for use as a pledged asset.

(5) Security agreement; segregation; minimum value; liens. All pledged assets shall be maintained pursuant to a written tri-party security agreement prescribed by the Department and entered into among the Georgia state branch or Georgia state agency, the Department, and the approved depository. Each security agreement shall create and effect the perfection of a first-lien security interest in the pledged assets in favor of the Department in accordance with the Uniform Commercial Code as adopted and in effect in this state. Without limiting this subsection (5), a foreign bank shall require the approved depository to segregate on its books and records the pledged assets held by the approved depository as custodian, and for such custody account to reflect the security interest in the custodied pledged assets for the benefit of the Department. Without further limiting this subsection (5), pledged assets that consist of deposit obligations of the approved depository shall be in deposit accounts titled to reflect the security interest of the Department, which deposit accounts shall be subject to and governed by a written security agreement meeting the requirements of this subsection (5). The pledged assets that consist of deposit accounts at the approved depository or, in the case of other assets that are placed in safekeeping with an approved depository acting as custodian:

(a) Shall not be reduced in value below the minimum required for that Georgia state branch or Georgia state agency without the prior approval of the Department, but in no event below the minimum amount required under O.C.G.A. § 7-1-410; and

(b) Shall be free from any lien, charge, right of setoff, credit, or preference in connection with any claim of the approved depository against the foreign bank, other than with respect to reasonable and customary fees payable to the approved depository.

(6) Reports and statements. Each Georgia state branch or Georgia state agency shall file with the Department such reports, account statements and other documents as required by the Department to determine compliance with this Rule.

(7) Multiple Georgia offices. If a foreign bank has more than one Georgia state branch or Georgia state agency, it shall determine the amount of the pledged assets and the amount of liabilities on an aggregate basis for all the foreign bank's Georgia state branches and Georgia state agencies.

(8) Liabilities requiring cover; excluded liabilities.

Liabilities requiring cover under these rules shall include all liabilities of a foreign bank appearing in the books, accounts and records of its Georgia state branches and Georgia state agencies as liabilities of such agency, agencies, branch or branches, including acceptances and such other liabilities (including contingent liabilities) as the Department shall determine, but excluding the following:

(a) amounts due and other liabilities to other offices, agencies, branches and affiliates of such foreign bank, including unremitted profits;

(b) reserves for possible loan losses and other contingencies;

(c) liabilities of an international banking facility to third parties and of a Georgia state branch or Georgia state agency to an international banking facility; and

(d) liabilities from repurchase agreements as determined by the Department on a case-by-case basis.

(9) Increase in Pledged Assets. For prudential or supervisory reasons, the Department may require, in individual cases or otherwise, that a foreign bank increase the amount of the pledged assets above the minimum amount.

(10) Valuation of Pledged Assets. The non-deposit obligations referred to in this Rule and custodied with an approved depository must be valued at the then amortized cost amount or the then current fair value, whichever is lower. FDIC-insured deposit obligations must be valued at the principal amount plus accrued but unpaid interest.

Cite as Ga. Comp. R. & Regs. R. 80-7-1-.11

AUTHORITY: O.C.G.A. §§ 7-1-61**;** 7-1-1109**.**

HISTORY: Original Rule entitled "Pledged Assets." adopted. F. Dec. 20, 2024; eff. Jan. 9, 2025.

80-7-1-.12 Highly Rated Foreign Banks

(1) Highly rated foreign bank. For purposes of these Rules, a foreign bank is a highly rated foreign bank if each Georgia state branch and Georgia state agency, each federal branch and federal agency of the foreign bank, and each state branch and agency maintained by the foreign bank in a state other than Georgia:

(a) As to Georgia state branches or Georgia state agencies, has a composite rating of 1 or 2 from the Department and the FRB under the interagency rating system for United States branches and agencies of foreign banks;

(b) As to foreign bank federal branch or agency offices, or state branch or agency offices licensed by a state other than Georgia, has a composite rating of 1 or 2 from the FRB, the OCC or the relevant state bank supervisory authority, as applicable, under the interagency rating system for United States branches and agencies of foreign banks;

(c) Is not subject to an administrative action, including, a cease and desist order, consent order, formal written agreement, or prompt corrective action directive; and

(d) As to the foreign bank's capital, the foreign bank maintains capital on a consolidated basis that meets or exceeds the minimum capital standards under its home country law as of the most recent fiscal quarter and year end.

Not less than annually, a highly rated foreign bank shall provide a certification to the Department confirming that it satisfies the provisions in this Rule to be considered a highly rated foreign bank, in accordance with such procedures as the Department shall establish. A highly rated foreign bank shall promptly inform the Department if it becomes aware of the existence of any fact that could cause its loss of status as "highly rated." The Department will also notify the foreign bank of its loss of status as a highly rated institution when such determination is made.

(2) Pledged Asset requirement for highly rated foreign banks. For a highly rated foreign bank, the maximum value of the required pledged assets shall be calculated according to the following schedule, as a percentage of average total liabilities for the previous month of such Georgia state branch or branches or Georgia state agency or agencies, including liabilities of an international banking facility maintained by such branch or branches or agency or agencies, but excluding amounts due and other liabilities to other offices, agencies, branches and affiliates not located in the state of Georgia and affiliates (as affiliates is defined in Code Section 7-1-1100), of such foreign bank:

(a) one percent of the first $1 billion;

(b) three quarters of one percent of the next $4 billion;

(c) one half of one percent of the next $5 billion;

(d) one quarter of one percent of any additional liabilities; and

(e) provided, however, that in no event shall the maximum amount required to be pledged under this section exceed $100,000,000.

(3) Loss of highly rated status. Upon a foreign bank being informed by the Department that it is no longer deemed "highly rated" for purposes of this Rule, or, if sooner, the foreign bank otherwise becoming aware of the existence of any fact that could cause its loss of status as "highly rated," the foreign bank shall have 30 calendar days to comply with the Pledged Asset requirements applicable to those institutions not designated as "highly rated," unless otherwise directed by the Department.

Cite as Ga. Comp. R. & Regs. R. 80-7-1-.12

AUTHORITY: O.C.G.A. §§ 7-1-61**;** 7-1-1109**.**

HISTORY: Original Rule entitled "Highly Rated Foreign Banks" adopted. F. Dec. 20, 2024; eff. Jan. 9, 2025.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-7. FOREIGN BANKING AND INTERNATIONAL BANKING FACILITIES

Subject 80-7-2. DOMESTIC INTERNATIONAL BANKING FACILITIES

80-7-2-.01 Definitions

(1) Unless further defined herein, definitions contained in Chapter 1 of Title 7 of the Official Code of Georgia, shall be applicable to this Rule chapter.

(2) Definitions contained herein shall be applicable to O.C.G.A. §§ 7-1-730 through 7-1-734 and this Rule chapter.

(a) "Parent Organization" shall mean the corporate entity containing any IBF located in this State and any affiliate of such entity.

(b) "IBF" shall mean a "Domestic International Banking Facility."

(c) "Temporary Advances" shall mean credit balances which bear interest.

Cite as Ga. Comp. R. & Regs. R. 80-7-2-.01

AUTHORITY: O.C.G.A. § 7-1-61**.**

HISTORY: Original Rule entitled "Definitions" adopted. F. Dec. 20, 2024; eff. Jan. 9, 2025.

80-7-2-.02 Status of Georgia Institutions

Banks shall, unless otherwise restricted, have the same rights, privileges, and responsibilities as are granted to IBF's herein or by statute.

Cite as Ga. Comp. R. & Regs. R. 80-7-2-.02

AUTHORITY: O.C.G.A. § 7-1-61**.**

HISTORY: Original Rule entitled "Status of Georgia Institutions" adopted. F. Dec. 20, 2024; eff. Jan. 9, 2025.

80-7-2-.03 Applications and Registrations

(1) Applications and registrations of IBFs shall be on forms prescribed by and available through the Department.

(2) Applications and registration forms shall be accompanied by such additional information as is required by O.C.G.A. § 7-1-732.

(3) Applications and registrations shall be accepted only where the parent organization of the applicant or an affiliate of such organization is recognized by its chartering authority or other appropriate governmental body in the country of its domicile as a banking institution with the legal authority to accept deposits from the citizens of that country.

Cite as Ga. Comp. R. & Regs. R. 80-7-2-.03

AUTHORITY: O.C.G.A. § 7-1-61**.**

HISTORY: Original Rule entitled "Applications and Registrations" adopted. F. Dec. 20, 2024; eff. Jan. 9, 2025.

80-7-2-.04 Interpretations

(1) The phrase "deposits subject to check or draft" as used in O.C.G.A. §§ 7-1-730 through 7-1-734 shall not include deposits withdrawn by wire transfer or by check or draft where the check or draft is payable to the owner of the deposit or an affiliate of the owner and where there are five or fewer checks/drafts in any thirty-day (30) period.

(2) For purposes of distinguishing between "deposits" and "credit balances," the following guidelines shall be applicable:

(a) The maintenance of all credit balances shall be supported by appropriate file memorandum relating to the class of credit balances generally, e.g. compensating loan balances, letter of credit transactions, or to the specific credit balance being maintained and its related exercise of lawful power. Such memorandum shall recite the terms under which the credit balance(s) is maintained, the nature of the transaction out of which the credit balance arose, and the terms under which the credit balance must be terminated.

(b) Access to credit balance accounts (other than by internally generated entry) may be by draft or transfer. Such items should not represent any significant volume relative to the nature of the account and should be two-party items, i.e. the payee should also be either the maker, the international bank, or an affiliate of the maker or international bank.

(3) The phrase "through its parent organization" as used in O.C.G.A. § 7-1-731 includes funds placed with and used internally for the benefit of the parent organization.

Cite as Ga. Comp. R. & Regs. R. 80-7-2-.04

AUTHORITY: O.C.G.A. § 7-1-61**.**

HISTORY: Original Rule entitled "Interpretations" adopted. F. Dec. 20, 2024; eff. Jan. 9, 2025.

80-7-2-.05 Operating Restrictions

(1) Balances maintained in violation of restrictions against deposits shall be returned to the owner within ninety (90) days of receipt of a notice from the Department to terminate the account unless a review by the Department at the written request of the IBF results in a determination that the balance should be allowed to remain on the books of the IBF.

(2) Each IBF shall maintain separate accounting records covering its assets, liabilities, income and expenses resulting from the operations located in this State. Such records may be reviewed by the Department to determine that the scope of the activities of the IBF in this state are within the limitations prescribed by law. The results of the Department review shall be maintained and treated by the Department in the same manner as Reports of Examination and may, in the discretion of Department, be provided to other regulatory authorities to whom the parent organization is accountable.

(3) No IBF shall be eligible to act as a fiduciary in the State or to provide fiduciary services as a consequence of it maintaining a place of business within this State or of its licensing or registration by the Department.

Cite as Ga. Comp. R. & Regs. R. 80-7-2-.05

AUTHORITY: O.C.G.A. § 7-1-61**.**

HISTORY: Original Rule entitled "Operating Restrictions" adopted. F. Dec. 20, 2024; eff. Jan. 9, 2025.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-12. MERCHANT ACQUIRER LIMITED PURPOSE BANKS

Subject 80-12-1. DEFINITIONS

80-12-1-.01 Definitions

(1) As used in Chapters 80-12-1, 80-12-2, 80-12-3, 80-12-4, 80-12-5, 80-12-6, 80-12-7, 80-12-8, 80-12-9, 80-12-10, 80-12-11, and 80-12-12, the terms that are defined in O.C.G.A. § 7-9-2 shall have the identical meaning.

(2) As used in Chapters 80-12-1, 80-12-2, 80-12-3, 80-12-4, 80-12-5, 80-12-6, 80-12-7, 80-12-8, 80-12-9, 80-12-10, 80-12-11, and 80-12-12, the below terms shall be defined as follows unless the term is otherwise defined in a specific rule:

(a) "Act" means the Georgia Merchant Acquirer Limited Purpose Bank Act promulgated at O.C.G.A. § 7-9-1 et seq.

(b) "Affiliate" means any corporation, business trust, association, or other similar organization:

1. Of which an MALPB, directly or indirectly, owns or controls either a majority of the voting shares or more than 50 percent of the number of shares voted for the election of its directors, trustees, or other persons exercising similar functions at the preceding election or controls in any manner the election of a majority of its directors, trustees, or other persons exercising similar functions;

2. Of which control is held, directly or indirectly, through stock ownership or in any other manner by the shareholders of an MALPB who own or control either a majority of the shares of such MALPB or more than 50 percent of the number of shares voted for the election of directors of such MALPB at the preceding election or by trustees for the benefit of the shareholders of any such MALPB;

3. Of which a majority of its directors, trustees, or other persons exercising similar functions are directors of any one MALPB; or

4. Which owns or controls, directly or indirectly, either a majority of the shares of an MALPB or more than 50 percent of the number of shares of an MALPB voted for the election of directors of an MALPB at the preceding election or controls in any manner the election of a majority of the directors of an MALPB or for the benefit of whose shareholders or members all or substantially all the capital stock of an MALPB is held by trustees.

(c) "Annual Attestation Report" or "AAR" means the standard annual report filed by an MALPB that will disclose information required by the Department. This report will consist of information on specific matters of compliance with applicable laws, regulations, rules, policies, and charter conditions and contain affirmative attestations by the MALPB's chief executive officer.

(d) "Average Total Assets" means an average of the MALPB's end of day total assets, excluding goodwill, intangible assets and merchant funds deposited in compliance with Rule 80-12-7-.02, for the previous month. Average total assets is the denominator of the leverage capital ratio.

(e) "Capital Letter of Credit" means an irrevocable letter of credit made payable to the Department for the benefit of merchants in the event of the bankruptcy - either voluntary or involuntary - receivership, or insolvency of the MALPB, which can be treated as tier 1 capital. Such letter of credit shall be continuously maintained, shall be for a term of not less than one (1) year, have a remaining term of no less than three (3) months, be in a form satisfactory

to the Department, and shall be issued by a financial institution authorized to do business in this State and approved by the Department.

(f) "Capital Maintenance Guaranty" means an unlimited, unconditional, continuous guaranty by the holding company to maintain in the MALPB at least the minimum capital levels required by law, regulation, rule, or administrative order. The guaranty must be in a form acceptable to the Department.

(g) "Capital Stock" means the sum of the par value of the authorized shares of an MALPB which have been issued and remain outstanding.

(h) "Chargeback" means a transaction that is returned to an MALPB through a payment card network.

(i) "Dispute processing" means all activities associated with the dispute resolution process including exchange of information, reporting, and funding.

(j) "Executive Officer" means a person who participates or has authority to participate (other than in the capacity of a director) in major policymaking functions of the company or MALPB, whether or not: the officer has an official title; the title designates the officer as an assistant; or the officer is serving without salary or compensation. The chief executive officer, chief information officer, chief risk officer, chief accounting officer, chief financial officer, chief compliance officer, president, every vice president and treasurer of a company or an MALPB are considered executive officers, unless the officer is excluded, by resolution of the board of directors or by the bylaws of the MALPB or company from participation (other than in the capacity of a director) in major policymaking functions of the MALPB or company, and the officer does not actually participate in major policymaking functions.

(k) "Financial Crime" means a crime involving conversion, theft, money laundering, bribery, dishonesty, breach of trust, forgery, counterfeiting, embezzlement, insider trading, tax evasion, kickbacks, identity theft, cyber attacks, social engineering, fraud, including, but not limited to check fraud, credit card fraud, mortgage fraud, medical fraud, corporate fraud, bank account fraud, payment (point of sale) fraud, currency fraud, bank fraud, and securities fraud, or a felony directly related to the financial services business.

(l) "Incidental Activities" means other activities that may be necessary, convenient, or incidental to effecting transactions within a payment card network and are not specifically enumerated as "merchant acquiring activities" in O.C.G.A. § 7-9-2.

(m) "Leverage Capital Ratio" means the MALPB's ratio of tier 1 capital to average total assets.

(n) "Main Office" means the single physical location in this State where the MALPB is authorized to take deposits permitted by O.C.G.A. § 7-9-12.

(o) "MALPB" means a merchant acquirer limited purpose bank as defined in O.C.G.A. § 7-9-2.

(p) "Membership" means any agreements between an MALPB and a payment card network that allows access to and/or participation in a payment card network.

(q) Reserved

(r) Reserved

(s) "Paid-in-Surplus" means the sum of the considerations received in the sale or exchange of shares of an MALPB in excess of the amount of the capital stock.

(t) "Payment Card" means a credit card, debit card, prepaid card, or any other payment device issued to a consumer that enables access to a consumer's funding source and is used to make payments to merchants.

(u) "Payment Volume or "PV" means the greater of one twelfth of the total dollar amount of payment transactions executed by the MALPB in the preceding twelve (12) months or forecast for the next twelve (12) months.

(v) "Principal Shareholder" means a person that directly or indirectly, or acting through or in concert with one or more persons, owns, controls, or has the power to vote more than ten (10) percent of any class of voting securities of an MALPB or holding company.

(w) "PV Capital" means the amount of tier 1 capital required to be maintained by the MALPB based on payment volume.

(x) "Public Company" means any company that is required to file reports under Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, has a market capitalization in excess of $3,000,000,000, and whose equity securities are listed on the New York Stock Exchange ("NYSE"), the National Association of Securities Dealers Automated Quotations ("NASDAQ"), or other stock market approved by the Department in writing and located in the United States.

(y) "Quarterly Financial Report" or "QFR" means the standard quarterly report filed by an MALPB that will contain financial statements, which shall include, but not be limited to, a balance sheet and an income statement, required by the Department.

(z) "Receivership Letter of Credit" means an irrevocable letter of credit made payable to the Department in order to cover the costs and expenses associated with a receivership of the MALPB. Such letter of credit shall be continuously maintained, shall be for a term of not less than one (1) year, have a remaining term of no less than three (3) months, be in a form satisfactory to the Department, and shall be issued by a financial institution authorized to do business in this State and approved by the Department.

(aa) "Risk Capital" means the amount of tier 1 capital required to be maintained by the MALPB based on the dollar volume of chargebacks.

(bb) "Standardized Regulatory Reports" or "SRRs" means the quarterly financial report and the annual attestation report that must be filed with the Department by each MALPB.

(cc) "Statutory Capital" means the sum of capital stock and paid-in-surplus of the MALPB, which, at all times, must be no less than $3 million.

(dd) "Subsidiary" means a corporation where an MALPB owns at least a majority of the voting shares.

(ee) "Support Organization" means a legal entity that is not an eligible organization but performs administrative support, information technology support, financial support, or tax and finance support for an MALPB pursuant to the terms of a contract.

(ff) "Tier 1 Capital" means the sum of statutory capital, retained earnings, noncumulative perpetual preferred stock, the secured portion of a capital maintenance guaranty, and a capital letter of credit, less any loans or accounts payable by an affiliate or holding company to the MALPB, goodwill, and intangible assets. To be considered for inclusion in tier 1 capital, the collateral securing the capital maintenance guaranty must be of a type approved by the Department, subject to discounting as approved by the Department, and properly assigned.

Cite as Ga. Comp. R. & Regs. R. 80-12-1-.01

AUTHORITY: O.C.G.A. §§ 7-9-3**,** 7-9-13**.**

HISTORY: Original Rule entitled "Definitions" adopted. F. Dec. 3, 2013; eff. Dec. 23, 2013.

Amended: F. June 15, 2015; eff. July 5, 2015.

Amended: F. July 12, 2024; eff. Aug. 1, 2024.

Amended: F. Dec. 20, 2024; eff. Jan. 9, 2025.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-12. MERCHANT ACQUIRER LIMITED PURPOSE BANKS

Subject 80-12-2. APPLICATION PROCESS

80-12-2-.02 Guidelines for Chartering a Merchant Acquirer Limited Purpose Bank

Specific requirements for documents, meetings with the Department and publication of notices are contained in the Guidelines for Chartering a Merchant Acquirer Limited Purpose Bank of the Department. The Department can amend its Guidelines for Chartering a Merchant Acquirer Limited Purpose Bank at any time. In the event the Department amends the Guidelines for Chartering a Merchant Acquirer Limited Purpose Bank while an application is pending, the applicant will amend its application in order to submit any additional information or documentation that the amendment may require.

Cite as Ga. Comp. R. & Regs. R. 80-12-2-.02

AUTHORITY: O.C.G.A. §§ 7-9-3**,** 7-9-13**.**

HISTORY: Original Rule entitled "Applications Manual and Statement of Policies" adopted. F. Dec. 3, 2013; eff. Dec. 23, 2013.

Amended: New title, "Guidelines for Chartering a Merchant Acquirer Limited Purpose Bank." F. Dec. 20, 2024; eff. Jan. 9, 2025.

80-12-2-.03 MALPB Applications

(1) Prior to submitting an MALPB charter application, an organizing group must schedule an initial meeting with the Department to discuss the charter proposal and the chartering process, at which time an application form and package will be distributed.

(2) The requirements for an MALPB charter application submission and documentation include, but are not limited to, the following items:

(a) A completed application form and package for chartering an MALPB;

(b) The applicant's articles of incorporation that satisfies the requirements of O.C.G.A. § 7-9-5. The suffix "MALPB" must follow the legal name of the MALPB applicant and, in the event a charter is issued, the suffix "MALPB" must be at all times utilized in the legal name of the MALPB;

(c) After receipt of the completed application form and package, any additional information requested by the Department in order to fully evaluate the application for a charter;

(d) A certificate from the Secretary of State showing that the proposed name of the applicant has been reserved pursuant to O.C.G.A. § 7-1-131. The name can be reserved by filing with the Department a form application to reserve a specified name. If the Department concludes that the use of a proposed name complies with O.C.G.A. § 7-1-130, is consistent with the purposes of the Act, and is distinguishable upon the records of the Secretary of State from the name of any other corporation, it shall approve the name and notify the Secretary of State to issue such name reservation;

(e) All applicable fees established by the Department in Rule 80-12-12-.02 or set forth in the Guidelines for Chartering a Merchant Acquirer Limited Purpose Bank of the Department to defray the expense of the investigation of the application. Such fees shall be remitted to the Department via certified check contemporaneously with the receipt of the application; and

(f) A copy of the application for Federal Deposit Insurance, if the applicant has filed such an application.

Cite as Ga. Comp. R. & Regs. R. 80-12-2-.03

AUTHORITY: O.C.G.A. §§ 7-9-3**,** 7-9-4**,** 7-9-6**,** 7-9-12**,** 7-9-13**.**

HISTORY: Original Rule entitled "MALPB Applications" adopted. F. Dec. 3, 2013; eff. Dec. 23, 2013.

Amended: F. Dec. 20, 2024; eff. Jan. 9, 2025.

80-12-2-.08 General Standards for Consideration of Applications

In evaluating the merits of an MALPB charter application, the Department shall consider, among other items: the financial history and condition of the applicant; adequacy of applicant capital, including, but not limited to, leverage capital ratio, PV capital, risk capital, and statutory capital; the capital maintenance guaranty; future earnings prospects for the applicant; character, capacity and ability of applicant management and principal shareholders; consistency of corporate powers; the existence and implementation of sound merchant approval processes and systems in order to closely monitor merchant activities; adequate number of knowledgeable staff, appropriate technology and information security systems, comprehensive and effective operating procedures, and effective contingency plans; sound internal control environment; formal reconciliation processes; adequacy of insurance coverage and letters of credit; robust risk management systems; adequate corporate governance structure; a structured compliance management program; whether there are sizable off-balance sheet or funding risks, chargeback risks, fraud risks, operational risks, technology or information security risks, compliance risks, or significant risks from concentrations of credit or nontraditional activities; the financial history and condition of the holding company; the adequacy of the holding company's capital; future earnings prospects for the holding company; character, capacity and ability of holding company management and principal shareholders; the activities of the holding company and MALPB subsidiaries and affiliates; and the applicant's proposed relationship with eligible organizations and support organizations. Additional information regarding the Department's evaluations may be set forth in greater detail in the Guidelines for Chartering a Merchant Acquirer Limited Purpose Bank or in the instructions accompanying the application.

Cite as Ga. Comp. R. & Regs. R. 80-12-2-.08

AUTHORITY: O.C.G.A. §§ 7-9-3**,** 7-9-7**,** 7-9-13**.**

HISTORY: Original Rule entitled "General Standards for Consideration of Applications" adopted. F. Dec. 3, 2013; eff. Dec. 23, 2013.

Amended: F. July 12, 2024; eff. Aug. 1, 2024.

Amended: F. Dec. 20, 2024; eff. Jan. 9, 2025.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-12. MERCHANT ACQUIRER LIMITED PURPOSE BANKS

Subject 80-12-4. OPERATIONS OF MALPB

80-12-4-.08 Notification of Computer Security Incident

(1) An MALPB must notify the Department about a notification incident through email, telephone, or other similar methods that the Department may prescribe. The Department must receive this notification from the MALPB as soon as possible and no later than 36 hours after the MALPB determines that a notification incident has occurred.

(2) For purposes of this Rule, these terms have the following meaning:

(a) "Computer-security incident" is an occurrence that results in actual harm to the confidentiality, integrity, or availability of an information system or the information that the system processes, stores, or transmits.

(b) "Notification incident" is a computer-security incident that has materially disrupted or degraded, or is reasonably likely to materially disrupt or degrade, an MALPB's-

(i) Ability to carry out operations, activities, or processes, or deliver products and services to a material portion of its customer base, in the ordinary course of business; or

(ii) Operations, including associated services, functions and support, as applicable, the failure or discontinuance of which would either result in a material loss of revenue, profit, or franchise value for the MALPB or pose a threat to the financial stability of the United States.

Cite as Ga. Comp. R. & Regs. R. 80-12-4-.08

AUTHORITY: O.C.G.A. §§ 7-9-3**,** 7-9-13**.**

HISTORY: Original Rule entitled "Notification of Computer Security Incident" adopted. F. Dec. 20, 2024; eff. Jan. 9, 2025.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-12. MERCHANT ACQUIRER LIMITED PURPOSE BANKS

Subject 80-12-5. BOOKS AND RECORDS

80-12-5-.05 Minimum Requirements for Books and Records

An MALPB must maintain the following books and records:

(a) All records required to be maintained by federal, state or, if applicable, international law, rules, or regulations, including, but not limited to, the rules enacted by the Department to carry out the provisions of the Act;

(b) All records required to be maintained by the applicable payment card networks;

(c) All contracts related to the MALPB's provision of merchant acquiring activities, including, but not limited to, contracts with payment card networks, merchants, affiliates, subsidiaries, eligible organizations, and support organizations;

(d) All records related to compliance with payment card network data security standards, such as Payment Card Industry Data Security Standard ("PCI DSS"), including, but not limited to, records indicating data security deficiencies by the MALPB, affiliates, subsidiaries, eligible organizations, support organizations, and merchants;

(e) All records related to the clearing and settlement of transactions through the payment card networks including, but not limited to, remittances to payment card networks;

(f) All reports or other compilation of data provided to payment card networks and/or merchants related to transactions;

(g) All records related to chargebacks, and business format change;

(h) Daily account of merchant funds broken down by merchant;

(i) Copies of all trust or custodial account agreements;

(j) Records of all complaints and records of disposition;

(k) Copies of examination reports prepared by any agency, division, or instrumentality of the United States, the State of Georgia or any other state, or any foreign country which report relates to the merchant acquiring activities of the MALPB;

(l) Copies of reports required to be prepared or submitted by the MALPB to any agency, division, or instrumentality of the United States, the State of Georgia or any other state, or any foreign country which report relates to the merchant acquiring activities of the MALPB;

(m) Copies of documents related to any adverse action taken by any agency, division, or instrumentality of the United States, the State of Georgia or any other state, or any foreign country, including, but not limited to, a revocation or suspension of a license or charter or the imposition of a fine or civil monetary penalties;

(n) Copies of all payroll records, including, but not limited to, federal and state withholding tax forms such as W-2s filed with the Internal Revenue Service by the MALPB on behalf of individuals employed by the MALPB;

(o) Employee files for all employees which shall include a Georgia Crime Information Center criminal background check and National Crime Information Center background check;

(p) Subject to the limitations in O.C.G.A. § 7-9-12, a deposit record which contains a continuing itemized record of all activity in the deposit account;

(q) An income and expense register and all of the supporting documentation related to income and expenses;

(r) A daily statement for each business day properly supported by a general ledger showing daily activity to each asset, liability, and capital account;

(s) Minutes from all meetings of the MALPB's Board of Directors and the committees of the Board of Directors;

(t) A shareholder list;

(u) An investment register and investment safekeeping report; and

(v) Information on transactions with holding companies, affiliates, and subsidiaries with respect to the terms and circumstances of such transactions and the basis of fees or other charges in order to determine compliance with Rules 80-12-9-.01 and 80-12-9-.02.

Cite as Ga. Comp. R. & Regs. R. 80-12-5-.05

AUTHORITY: O.C.G.A. §§ 7-9-3**,** 7-9-13**.**

HISTORY: Original Rule entitled "Minimum Requirements for Books and Records" adopted. F. Dec. 3, 2013; eff. Dec. 23, 2013.

Amended: F. July 12, 2024; eff. Aug. 1, 2024.

Amended: F. Dec. 20, 2024; eff. Jan. 9, 2025.

80-12-5-.08 Public Access to Records

(1) The following records in the Department's possession shall be subject to inspection by members of the public: the portion of the SSRs, if any, that have been expressly designated as public on the Department's approved form; final orders; the portion of the charter application that has been expressly designated as public on the charter application from the date the application has been accepted by the Department until ninety (90) days after final disposition has been issued on the application; and the audited financial statement with the auditor's opinion from the annual audit prepared in conformity with Rule 80-12-5-.02.

(2) Upon receipt of a written request by an MALPB, the Department is authorized to disclose any records or information provided to it by the MALPB or by another entity on behalf of the MALPB with any entity related to the payment card network notwithstanding the fact that the records or information are otherwise confidential pursuant to Georgia law or the rules of the Department. These authorized disclosures of information, where appropriate, shall be made only if safeguards are in place that are designed to prevent further dissemination of confidential records or information. The Department retains complete discretion to grant or deny a request for the production of records and documents in whole or in part and nothing in this Rule shall be deemed to require that the Department produce any records or information.

(3) Any examination reports, reports of investigation or other information in the Department's possession that were obtained from another supervisory or regulatory agency, law enforcement, or the payment card networks shall be treated as the property of the provider. Requests for such information should be made to the provider directly.

Cite as Ga. Comp. R. & Regs. R. 80-12-5-.08

AUTHORITY: O.C.G.A. §§ 7-9-3**,** 7-9-13**.**

HISTORY: Original Rule entitled "Public Access to Records" adopted. F. Dec. 3, 2013; eff. Dec. 23, 2013.

Amended: F. Dec. 20, 2024; eff. Jan. 9, 2025.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-12. MERCHANT ACQUIRER LIMITED PURPOSE BANKS

Subject 80-12-7. SOLVENCY AND SAFEGUARDS

80-12-7-.01 Minimum Capital Requirements

(1) MALPBs must continuously maintain at least the minimum leverage capital ratio, PV capital, risk capital, and statutory capital requirements set forth in this rule. The capital standards in this part are the minimum acceptable for an MALPB whose overall financial condition is fundamentally sound, which is well-managed and which has no material or significant operational or financial weaknesses. Thus, the Department is not precluded from requiring an MALPB to maintain a higher leverage capital ratio, PV capital, risk capital, or statutory capital level based on the MALPB's particular risk profile. The Department will evaluate the factors set forth in Rule 80-12-2-.08 in analyzing the MALPB's capital adequacy and may determine that the minimum leverage capital ratio, PV capital, risk capital, or statutory capital for that MALPB is greater than the minimum standards stated in this Rule. These same criteria will apply to any MALPB seeking authorization from the Department to engage in any activity if the Department believes the adequacy of the MALPB's capital structure is relevant to the requested authorization.

(2) The minimum leverage capital ratio requirement for an MALPB shall not be less than ten (10) percent.

(3) The minimum PV capital requirement for an MALPB shall not be less than:

(a) 5.00 percent of the tier of PV up to $10 million, plus

(b) 3.00 percent of the tier of PV above $10 million up to $25 million, plus

(c) 1.50 percent of the tier of PV above $25 million up to $100 million, plus

(d) 0.75 percent of the tier of PV above $100 million up to $250 million, plus

(e) 0.25 percent of the tier of PV above $250 million up to $1 billion, plus

(f) 0.15 percent of the tier of PV above $1 billion up to $5 billion, plus

(g) 0.08 percent of the tier of PV above $5 billion up to $20 billion, plus

(h) 0.05 percent of the tier of PV above $20 billion.

(4) The minimum risk capital requirement for an MALPB shall not be less than the greater of: a) two times the average monthly chargebacks over the previous six (6) month period; or b) two times the average monthly forecast dollar volume of chargebacks for the upcoming six (6) month period.

(5) The Department's MALPB charter approval will include a requirement to have and maintain minimum statutory capital, which in no event shall be less than $3 million.

(6) An MALPB with less than the minimum leverage capital ratio, PV capital, risk capital, or statutory capital requirement:

(a) Is operating with inadequate capital and, therefore, has inadequate financial resources. Thus, at the discretion of the Department, such MALPB may be deemed to be operating in an unsafe or unsound or unauthorized manner and subject to the Department's enforcement powers, including, but not limited to, those set forth in O.C.G.A. 7-1-91.

(b) Must file a written capital restoration plan with the Department within thirty (30) days of the date that the MALPB knows or should have known that the MALPB is operating with an inadequate capital structure, unless the Department notifies the MALPB in writing that the plan is to be filed within a different period.

Cite as Ga. Comp. R. & Regs. R. 80-12-7-.01

AUTHORITY: O.C.G.A. §§ 7-9-3**,** 7-9-12**,** 7-9-13**.**

HISTORY: Original Rule entitled "Minimum Capital Requirements" adopted. F. Dec. 3, 2013; eff. Dec. 23, 2013.

Amended: F. July 12, 2024; eff. Aug. 1, 2024.

Amended: F. Dec. 20, 2024; eff. Jan. 9, 2025.

80-12-7-.06 Liability Funding of Corporate Activities

(1) No MALPB may enter into contractual debt obligations which in the aggregate are dependent upon revenues produced by the MALPB and any subsidiary of the MALPB for annual servicing during the term of the debt in excess of fifty (50) percent of the average annual consolidated net operating earnings of the MALPB and any subsidiary of the MALPB for the three fiscal years immediately preceding the date of the extension of credit.

(2) No holding company of an MALPB may enter into contractual debt obligations which in the aggregate are dependent upon revenues primarily produced by the MALPB and any subsidiary of the MALPB for annual servicing during the term of the debt in excess of fifty (50) percent of the average annual consolidated net operating earnings of the MALPB and any subsidiary of the MALPB for the three fiscal years immediately preceding the date of the extension of credit.

(3) The Department, upon specific written request of the MALPB, may waive the requirements in this Rule.

Cite as Ga. Comp. R. & Regs. R. 80-12-7-.06

AUTHORITY: O.C.G.A. §§ 7-9-3**,** 7-9-13**.**

HISTORY: Original Rule entitled "Liability Funding of Corporate Activities" adopted. F. Dec. 20, 2024; eff. Jan. 9, 2025.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-12. MERCHANT ACQUIRER LIMITED PURPOSE BANKS

Subject 80-12-8. ELIGIBLE AND SUPPORT ORGANIZATIONS

80-12-8-.03 Oversight of Eligible and Support Organizations

An MALPB contracting with an eligible organization or a support organization must have sufficient controls in place to monitor and ensure that the services provided by the eligible organization or support organization on behalf of the MALPB comply with the Act and the Rules. The MALPB must also employ good faith efforts to monitor the financial condition of the eligible organization or the support organization and must notify the Department immediately when it discovers or suspects that the eligible organization or support organization has experienced or will experience a net operating loss, is insolvent, or is engaged in illegal activity.

Cite as Ga. Comp. R. & Regs. R. 80-12-8-.03

AUTHORITY: O.C.G.A. §§ 7-9-3**,** 7-9-13**.**

HISTORY: Original Rule entitled "Oversight of Eligible Organizations and Support Organizations" adopted. F. Dec. 3, 2013; eff. Dec. 23, 2013.

Amended: F. Dec. 20, 2024; eff. Jan. 9, 2025.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-12. MERCHANT ACQUIRER LIMITED PURPOSE BANKS

Subject 80-12-9. RELATIONSHIPS WITH AFFILIATES AND INVESTMENTS AND DISTRIBUTIONS

80-12-9-.02 Subsidiaries

(1) An MALPB can create a separate subsidiary to only carry out such activities that fall within the authorized scope of merchant acquiring activities as set forth in Rule 80-12-4-.01. Prior to utilizing the subsidiary, the MALPB must submit an application for approval describing the activity that the subsidiary will perform, how the proposed activity relates to the MALPB, and what protections will be in place to deal with any associated risks. The Department shall request additional information, approve, conditionally or otherwise, or deny a request for authorization to utilize a subsidiary within sixty (60) days after receipt of the application. In the event the Department does not take any of the above actions within sixty (60) days of receipt of the application, then the application will be deemed approved.

(2) Subsidiaries of an MALPB are subject to the same limitations and requirements that apply to an MALPB including, but not limited to, Rule 80-12-9-.01.

(3) An MALPB contracting with a subsidiary must have sufficient controls in place to monitor and ensure that the services provided by the subsidiary on behalf of the MALPB comply with the Act and the Rules. The MALPB must also employ good faith efforts to monitor the financial condition of the subsidiary and must notify the Department immediately when it discovers or suspects that the subsidiary has experienced or will experience a net operating loss, is insolvent, or is engaged in illegal activity.

Cite as Ga. Comp. R. & Regs. R. 80-12-9-.02

AUTHORITY: O.C.G.A. §§ 7-9-3**,** 7-9-13**.**

HISTORY: Original Rule entitled "Subsidiaries" adopted. F. Dec. 3, 2013; eff. Dec. 23, 2013.

Amended: F. July 12, 2024; eff. Aug. 1, 2024.

Amended: F. Dec 20, 2024; eff. Jan. 9, 2025.

Department 80. RULES OF DEPARTMENT OF BANKING AND FINANCE

Chapter 80-14. INSTALLMENT LOANS

Subject 80-14-1. PLACE OF BUSINESS, ADVERTISING, AND OTHER REQUIREMENTS

80-14-1-.02 Location Managers

(1) A "location manager" shall mean an individual who supervises daily activities in Georgia of a licensee, whether at a main office or branch as defined in Rule 80-14-1-.01, and regardless of job title.

(2) No individual shall be permitted to manage a location in Georgia without being approved by the Department as a location manager. A location manager may be put in place subject to Departmental approval, but the Department must receive a complete application for approval within 15 calendar days of the placement. No individual may serve as the location manager of more than one location of a licensee.

(3) The Department shall conduct a criminal background check and require such other pertinent information to satisfy itself that the location manager will operate the location responsibly and in compliance with the laws and rules of this state.

(4) Notwithstanding any approval of the location manager by the Department, the licensee has full and direct financial responsibility for the lending activities of each location manager and full and direct responsibility for the training and supervision of the location manager. The licensee will supervise the location and location manager on an ongoing and regular basis and shall be accountable for the lending activities of the location and location manager. Any violation of the Georgia Installment Loan Act or the rules and regulations of the Department by a location manager shall be deemed to be a violation by both the licensee and the location manager.

Cite as Ga. Comp. R. & Regs. R. 80-14-1-.02

AUTHORITY: O.C.G.A. §§ 7-3-32**,** 7-3-51**.**

HISTORY: Original Rule entitled "Location Managers" adopted. F. Aug. 19, 2020; eff. Sept. 8, 2020.

Amended: F. July 7, 2023; eff. July 27, 2023.

Amended: F. Dec. 20, 2024; eff. Jan. 9, 2025.

Department 111. RULES OF DEPARTMENT OF COMMUNITY HEALTH

Chapter 111-2. HEALTH PLANNING

Subject 111-2-1. ADMINISTRATION

111-2-1-.02 Health Planning Functions of the Department

(1) The Department is authorized to administer the health planning and Certificate of Need programs established under O.C.G.A. § 31-6 *et seq.* and a state health plan approved by the Board. The Department shall review and update the state health plan at least every five years beginning no later than January 1, 2025, to ensure the plan meets the evolving needs of the state. The Department shall provide by rule for procedures to administer its functions. As appropriate, the Commissioner may delegate the authority to administer any function or duty prescribed by law or these Rules to one or more authorized designees in the Office of Health Planning and the Office of General Counsel.

(2) The functions of the Department shall be:

(a) to conduct the health planning activities of the State and, within appropriations made available by the General Assembly and consistent with the laws of the State of Georgia, to implement such parts of the State Health Plan as may relate to State government;

(b) to prepare and revise a draft State Health Plan with recommendations from technical advisory committees;

(c) to seek advice, at its discretion, from technical advisory committees;

(d) to adopt, promulgate, and implement rules and procedures necessary to carry out the provisions of O.C.G.A. § 31-6 *et seq.* in accordance with O.C.G.A. § 50-13 *et seq*., the Georgia Administrative Procedure Act.

(e) to define the form, content, schedules, fees, and procedures for submission of applications for Certificates of Need, other determinations and periodic reports;

(f) to establish time periods and procedures consistent with O.C.G.A. § 31-6 *et seq*. to hold hearings and to obtain the viewpoints of interested persons prior to issuance or denial of a Certificate of Need;

(g) to provide for such payment as may be necessary to share the costs of preparing the record for Certificate of Need appeals before the Certificate of Need Appeal Panel;

(h) to provide for a reasonable and equitable fee schedule for Certificate of Need applications; provided, however, that a Certificate of Need application filed by or on behalf of a hospital in a rural county shall be exempt from any such fee;

(i) to grant, deny, suspend, rescind, cancel, or revoke a Certificate of Need as applied for or as amended;

(j) to impose civil penalties as permitted or required by law for violation of these Rules and O.C.G.A. § 31-6 *et seq*.; and

(k) to study the amount of uncompensated indigent and charity care provided by each type of health care facility, recommend requirements for the levels of uncompensated indigent and charity care required to be performed by each health care facility type and develop standardized reporting requirements for the Department to accurately track the amount of uncompensated indigent and charity care provided by each health care facility.

(3) The Commissioner shall have the power to establish and abolish technical advisory committees as he or she deems necessary, in consultation with the board, to inform effective strategy development and execution.

Cite as Ga. Comp. R. & Regs. R. 111-2-1-.02

AUTHORITY: O.C.G.A. § 31-6 *et seq*.

HISTORY: Original Rule entitled "Health Planning Functions of the Department" adopted. F. Dec. 16, 2004; eff. Jan. 5, 2005.

Amended: F. Sept. 11, 2008; eff. Oct. 1, 2008.

Amended: F. Mar. 11, 2022; eff. Mar. 31, 2022.

Amended: F. Dec. 10, 2024; eff. Dec. 30, 2024.

Department 111. RULES OF DEPARTMENT OF COMMUNITY HEALTH

Chapter 111-2. HEALTH PLANNING

Subject 111-2-2. CERTIFICATE OF NEED

111-2-2-.01 Definitions

As used in these Rules, the term:

(1) "Acquisition of an existing health care facility" means to come into possession or control of a health care facility by purchase, gift, merger of corporations, lease, purchase of stock, inheritance, or by any other legal means.

(2) "Acquisition of diagnostic, therapeutic, or other imaging equipment":

(a) as it relates to a diagnostic, treatment, or rehabilitation center, means to come into possession, or control of, or to otherwise use diagnostic, therapeutic, or other imaging equipment by purchase, gift, donation, lease, transfer, or by any other legal means by or on behalf of diagnostic, treatment, or rehabilitation center; and

(b) as it relates to a health care facility, means to come into possession or control of diagnostic, therapeutic, or other imaging equipment by purchase or lease by or on behalf of the health care facility.

(3) "Ambulatory surgery" means surgical procedures that include but are not limited to those recognized by the Centers for Medicare and Medicaid Services ("CMS"), by the Georgia Division of Medical Assistance ("DMA"), by the State Health Benefit Plans, or by any successor entities as reimbursable ambulatory surgery procedures. Ambulatory surgery is provided only to patients who are admitted to a facility which offers ambulatory surgery and which does not admit patients for treatment that normally requires stays that are overnight or exceed 24 hours and which does not provide accommodations for treatment of patients for periods of twenty-four hours or longer.

(4) "Ambulatory surgical or obstetrical facility", as defined at O.C.G.A. § 31-6-2(1), means a public or private facility, not a part of a hospital, which provides surgical or obstetrical treatment performed under general or regional anesthesia in an operating room environment to patients not requiring hospitalization.

(5) "Applicant" means the owner or lessee of an existing health care facility or the person who would be the owner or lessee of a proposed facility, as named in the application. An applicant may also be multiple owners or lessees of existing health care facilities who share common ownership or corporate affiliation and wish to submit an application to the Department for a single Certificate of Need for certain non-clinical health services, for example, but not limited to, parking decks, infrastructure improvement or replacement, and capital renovation expenditures.

(6) "Application", as defined at O.C.G.A. § 31-6-2(2), means a written request for a Certificate of Need made to the Department, containing such documentation and information as the Department may require.

(7) "Approved date" means the date that the Department issues a Certificate of Need to an applicant.

(8) "Associated with and simultaneously developed or proposed" means that if the Department determines that a single project or the substantial equivalent of a single project is divided into separate components which are associated and which are developed or planned simultaneously, so that the project or the substantial equivalent of a project or any component thereof does not require a total capital expenditure in excess of the capital expenditure or diagnostic, therapeutic, or other imaging equipment threshold as applicable, the Department shall combine the components for purposes of computing the amount of the total capital expenditure or expense and shall treat the combined components as a single project or substantial equivalent of a project. The Department shall include items

and expenditures which are related and which occur simultaneously in computing an applicable threshold regardless of whether the items or expenditures individually may otherwise be below the threshold or may be otherwise unreviewable exclusive of the items exempted from review by Ga. Comp. R. & Regs. r. 111-2-2-.03(1)-(3) and Ga. Comp. R. & Regs. r. 111-2-2-.03(5)-(19);

(a) The Department may determine that activities, services, expenditures, and items are associated if they share a relationship or association based on law, regulation, definition, function, procedure, or process; and

(b) The Department shall determine that expenditures related to activities, services, and items are simultaneously developed or planned if such expenditures occur within a 6-month period. The 6-month period shall run from operation of the activity, service or item to initial capital expenditure on the second activity or item or from operation of the activity or item to operation of the second activity or item. For services, the date of operation shall be the date that the service is actually offered. If applicable, for facilities, the date of operation shall be the date a Certificate of Occupancy is issued.

(9) **Reserved.**

(10) "Basic perinatal services" means providing basic inpatient care for pregnant women and newborns without complications; managing perinatal emergencies; consulting with and referring to specialty and subspecialty hospitals; identifying high-risk pregnancies; providing follow-up care for new mothers and infants; and providing public/community education on perinatal health.

(11) "Bed capacity", as defined at O.C.G.A. § 31-6-2(4), means space used exclusively for inpatient care, including space designed or remodeled for inpatient beds even though temporarily not used for such purposes. The number of beds to be counted in any patient room shall be the maximum number for which adequate square footage is provided as established by Rules of the Department, except that single beds in single rooms shall be counted even if the room contains inadequate square footage.

(12) "By or on behalf of" means any expenditures made by a health care facility, a political subdivision of the State, a diagnostic, treatment, or rehabilitation center, or a hospital authority, itself as well as capital expenditures made by other persons or related entities to assist the facility, subdivision, center, or authority, directly or indirectly, to offer services to its patients or residents. Related entities include entities that are associated or affiliated with, have control over or are controlled by, or have any direct financial interest in, the health care facility, political subdivision of the State, diagnostic, treatment, or rehabilitation center, or hospital authority, including, without limitation, an underwriter, guarantor, parent organization, sister organization, subsidiary or sub-entity, foreign corporation, joint venturer, partner, general partner, or building lessor, as applicable.

(13) "Capital expenditure" in relation to a proposed modification, renovation, or addition to a health care facility or to a diagnostic, treatment, or rehabilitation center, or acquisition of equipment, means an expenditure by or on behalf of a health care facility or diagnostic, treatment, or rehabilitation center that, under generally accepted accounting principles, is not properly chargeable as an expense of operation or maintenance. Any series of capital expenditures, which are associated and simultaneously developed or proposed, will be presumed to be a single project.

(14) "Certificate of Need" or "CON", as defined at O.C.G.A. § 31-6-2(6), means an official finding by the Department, evidenced by certification issued pursuant to an application, that the action proposed in the application satisfies and complies with the criteria contained in the Statute and Rules promulgated pursuant thereto.

(15) **Reserved.**

(16) "Clinical health services", as defined at O.C.G.A. § 31-6-2(8), means diagnostic, treatment, or rehabilitative services provided in a health care facility and includes, but is not limited to, the following: radiology and diagnostic imaging, such as magnetic resonance imaging and positron emission tomography (PET); radiation therapy; biliary lithotripsy; surgery; intensive care; coronary care; pediatrics; gynecology; obstetrics; general medical care; medical-surgical care; inpatient nursing care, whether intermediate, skilled or extended care; cardiac catheterization; open heart surgery; inpatient rehabilitation; and alcohol, drug abuse, and mental health services.

(17) "Consumer", as defined at O.C.G.A. § 31-6-2(10), means a person who is not employed by any health care facility or provider and who has no financial or fiduciary interest in any health care facility or provider.

(18) "Cost estimate" means an estimate of the total cost of a project's development and construction prepared by a licensed architect or engineer within sixty days prior to the date of submittal of an application.

(19) "Defined location", as it relates to the approved location of a project or substantial equivalent of a project, means the address of the project, or in the case of a health care facility or diagnostic, treatment, or rehabilitation center with multiple addresses, the campus of such health care facility or diagnostic, treatment, or rehabilitation center. However, in no case shall a campus be considered a single defined location if varying locations and facilities of such campus are more than 3 miles apart or within more than one county.

(20) "Destination cancer hospital" means an institution with a licensed bed capacity of fifty (50) or less which provides diagnostic, therapeutic, treatment, and rehabilitative care services to cancer inpatients and outpatients, by or under the supervision of physicians, and whose proposed annual patient base is composed of a minimum of sixty-five percent (65%) of patients who reside outside of the State of Georgia.

(21) "Develop", as defined at O.C.G.A. § 31-6-2(14), with reference to a project, means constructing, remodeling, installing, or proceeding with a project, or any part of a project. Notwithstanding the provisions of this paragraph, the expenditure or commitment or incurring an obligation for the expenditure of funds to develop Certificate of Need applications, studies, reports, schematics, preliminary plans and specifications, or working drawings, or to acquire, develop, or prepare sites shall not be considered to be the developing of a project.

(22) "Diagnostic imaging" means magnetic resonance imaging, computed tomography (CT) scanning, positron emission tomography (PET) scanning, positron emission tomography/computed tomography, and other advanced imaging services as defined by the Department by rule, but such term shall not include X-rays, fluoroscopy, or ultrasound services.

(23) "Diagnostic, treatment, or rehabilitation center", as defined at O.C.G.A. § 31-6-2(16), means any professional or business undertaking, whether for profit or not for profit, which offers or proposes to offer any clinical health service in a setting which is not part of a hospital; provided, however, that any such diagnostic, treatment, or rehabilitation center that offers or proposes to offer surgery in an operating room environment and to allow patients to remain more than twenty-three (23) hours shall be considered a hospital for purposes of O.C.G.A. § 31-6 et seq.

(24) "Effective date" means:

(a) for approved projects that have not been appealed pursuant to the appeal provisions of the Rules of the Certificate of Need Appeal Panel, the approved date;

(b) for projects, which are appealed pursuant to the appeal provisions of the Rules of the Certificate of Need Appeal Panel, the date of the final resolution of any such administrative appeal if the resolution results in the approval of the project; or

(c) for projects which undergo judicial review, the effective date shall be the date referenced in (b) above, unless the Department, pursuant to Ga. Comp. R. & Regs. r. 111-2-2-.07(2)(h), or the reviewing court stays the effective date of the project pending the outcome of the judicial review. If the Department or the reviewing court stays the effective date, the effective date shall be the date of the final resolution of any such judicial review if the resolution results in approval of the project.

(25) "Expiration date" is the date upon which a Certificate of Need expires and becomes null and void.

(26) "Functionally related diagnostic, therapeutic, or other imaging equipment" means that pieces of diagnostic, therapeutic, or other imaging equipment are interdependent to the extent that one piece of equipment is unable to function in the absence of or without the functioning piece or equipment, or that pieces of equipment are normally used together in the provision of a single health care facility or diagnostic, treatment, or rehabilitation center service.

(27) "General cancer hospital" means an institution which was an existing and approved destination cancer hospital as of January 1, 2019; has obtained final Certificate of Need approval for conversion from a destination cancer hospital to a general cancer hospital in accordance with O.C.G.A. § 31-6-40.3; and offers inpatient and outpatient diagnostic, therapeutic, treatments, and rehabilitative cancer care service or other services to diagnose or treat co-morbid medical conditions or diseases of cancer patients so long as such services do not result in the offering of any new or expanded clinical health service that would require a Certificate of Need under this chapter unless a Certificate of Need or letter of determination has been obtained for such new or expanded services.

(28) "Health care facility", as defined at O.C.G.A. § 31-6-2(17), means hospitals; destination cancer hospitals; other special care units, including but not limited to podiatric facilities; skilled nursing facilities; intermediate care facilities; personal care homes; ambulatory surgical or obstetrical facilities; freestanding emergency departments or facilities not located on a hospital's primary campus; health maintenance organizations; home health agencies; diagnostic, treatment, or rehabilitation centers, but only to the extent that O.C.G.A. § 31-6-40(a)(3) or (7) or both are applicable thereto.

(29) "Health maintenance organization", as defined at O.C.G.A. § 31-6-2(18), means a public or private organization organized under the laws of this state which:

(a) provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: usual physicians' services, hospitalization, laboratory, X-ray, emergency and preventive services, and out-of-area coverage;

(b) is compensated, except for co-payments, for the provision of the basic health care services listed in subparagraph (a) of this paragraph to enrolled participants on a predetermined periodic rate basis; and

(c) provides physicians' services primarily:

1. directly through physicians who are either employees or partners of such organization; or

2. through arrangements with individual physicians organized on a group practice or individual practice basis.

(30) "Home health agency", as defined at O.C.G.A. § 31-6-2(20), means a public agency or private organization, or a subdivision of such an agency or organization, which is primarily engaged in providing to individuals who are under a written plan of care of a physician, on a visiting basis in the places of residence used as such individuals' homes, part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse, and one or more of the following services:

(a) physical therapy;

(b) occupational therapy;

(c) speech therapy;

(d) medical social services under the direction of a physician; or

(e) part-time or intermittent services of a home health aide.

(31) "Hospital", as defined at O.C.G.A. § 31-6-2(21), means an institution which is primarily engaged in providing to inpatients, by or under the supervision of physicians, diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons or rehabilitation services for the rehabilitation of injured, disabled, or sick persons. Such term includes public, private, psychiatric, rehabilitative, geriatric, osteopathic, micro-hospitals, general cancer hospitals, and other specialty hospitals.

(32) "Incur a financial obligation", in relation to the offering of a new institutional health service, means that, within time periods described in Ga. Comp. R. & Regs. r. 111-2-2-.02(5) and (6) of these Rules, the applicant has fulfilled the following performance requirements.

(a) With regard to new construction or renovation:

1. has acquired title, an option to purchase or a leasehold to an appropriate site;

2. has filed with the Department the complete set of plans, drawings, and specifications for the project in the electronic format designated by the Department;

3. has obtained a firm commitment for adequate capital financing; and

4. has entered into a construction contract that provides for a specific date for commencement, and completion of construction within a reasonable time span.

With regard to equipment not associated with a construction project;

1. a purchase or lease agreement has been entered into or, if acquired by a comparable arrangement, the applicant has possession of the equipment.

(33) **Reserved.**

(34) "Intermediate care facility", as defined at O.C.G.A. § 31-6-2(22), means an institution which provides, on a regular basis, health related care and services to individuals who do not require the degree of care and treatment which a hospital or skilled nursing facility is designed to provide but who, because of their mental or physical condition, require health related care and services beyond the provision of room and board.

(35) "Joined applications" means two or more applications which involve similar projects in the same service area or overlapping service areas all of which have been declared complete by the twenty-fifth (25^{th}) calendar days of the reviewcycle of the first application, and whose time limits are scheduled to run from the latest date that any one of the joined applications was received.

(36) "Joint venture ambulatory surgical center" means a freestanding ambulatory surgical center that is jointly owned by a hospital in the same county as the center or a hospital in a contiguous county if there is no hospital in the same county as the center and a single group of physicians practicing in the center and that provides surgery in a single specialty as defined by the Department. Such ambulatory surgical center shall only be utilized by physicians who are of the same single specialty, who may include physicians who are not owners or employees of the single group practice of physicians that own and operate the center; provided, however, that general surgery, a group practice which includes one or more physiatrists who perform services that are reasonably related to the surgical procedures performed in the center, and a group practice in orthopedics which includes hand surgeons with a certificate of added qualifications in Surgery of the Hand from the American Board of Plastic and Reconstructive Surgery shall be considered a single specialty. The ownership interest of the hospital shall be no less than thirty percent (30%) and the collective ownership of the physicians or group of physicians shall be no less than thirty percent (30%). Nothing in this paragraph shall prohibit the owners of the center from entering into an arrangement with an outside entity for practice management, administrative services, or both.

(37) "Life plan community" means an organization, whether operated for profit or not, whose owner or operator undertakes to provide shelter, food, and either nursing care or personal services, whether such nursing care or personal services are provided in the facility or in another setting, and other services, as designated by agreement, to an individual not related by consanguinity or affinity to such owner or operator providing such care pursuant to an agreement for a fixed or variable fee, or for any other remuneration of any type, whether fixed or variable, for the period of care, payable in a lump sum, lump sum and monthly maintenance charges or in installments. Agreements to provide continuing care include agreements to provide care for any duration, including agreements that are terminable by either party.

(38) "Medical use rights" means rights or interests in real property in which the owner of the property has agreed not to sell or lease such real property for identified medical uses or purposes.

(a) It shall be unlawful for any health care facility to purchase, renew, extend, lease, maintain, or hold medical use rights.

(39) "Micro-hospital" means a hospital in a rural county which has at least two and not more than seven inpatient beds and which provides emergency services seven days per week and 24 hours per day.

(40) "Mobile unit" means an object with the ability by structure, function or design to move or be moved from one site to another, such that upon arriving at a site the object is not permanently fixed but is temporarily secured for the purpose of providing a service to individuals.

(41) "New and emerging health care service" means a health care service or utilization of medical equipment which has been developed and has become acceptable or available for implementation or use but which has not yet been addressed under the Rules and regulations promulgated, adopted and included within and hereto.

(42) "New institutional health service", as defined at O.C.G.A. § 31-6-40(a) means:

(a) the construction, development, or other establishment of a new, expanded, or relocated health care facility, except as otherwise provided in O.C.G.A. § 31-6-47;

(b) **Reserved**;

(c) any increase in the bed capacity of a health care facility, regardless of whether a capital expenditure is made, which increases the total bed capacity. An exception to this Rule will be made in accordance with Ga. Comp. R. & Regs. r. 111-2-2-.03(14);

(d) clinical health services that are offered in or through a health care facility, which were not offered on a regular basis in or through such health care facility within the twelve (12) month period prior to the time such services would be offered;

(e) any conversion or upgrading of any general acute care hospital to a specialty hospital or of a facility such that it is converted from a type of facility not covered by these Rules to any of the types of health care facilities which are covered by these Rules;

(f) the purchase or lease by or on behalf of a health care facility of diagnostic or therapeutic equipment except as otherwise provided in O.C.G.A. § 31-6-47 and Ga. Comp. R. & Regs. r. 111-2-2-.03 and Ga. Comp. R. & Regs. r. 111-2-2-.10;

(g) clinical health services which are offered in or through a diagnostic, treatment, or rehabilitation center which were not offered on a regular basis in or through that center within the twelve (12) month period to the time such services would be offered, but only if the clinical health services are any of the following:

1. Radiation therapy;

2. Biliary lithotripsy;

3. Surgery in an operating room environment, including but not limited to ambulatory surgery; and

4. Cardiac catheterization.

(h) The conversion of a destination cancer hospital to a general cancer hospital.

(43) "Nonclinical health services", as defined at O.C.G.A. § 31-6-2(25), means services or functions provided or performed by a health care facility, and the parts of the physical plant where they are located in a health care facility that are not diagnostic, therapeutic, or rehabilitative services to patients and are not clinical health services as defined in this chapter.

(44) "Offer", as defined at O.C.G.A. § 31-6-2(26), means that the health care facility is open for the acceptance of patients or performance of services and has qualified personnel, equipment, and supplies necessary to provide specified clinical health services.

(45) "Operating room environment", as defined at O.C.G.A. § 31-6-2(27), means an environment which meets the minimum physical plant and operational standards specified in the applicable administrative rules of the state which shall consider and use the design and construction specifications as set forth in the Guidelines for Design and Construction of Health Care Facilities published by the American Institute of Architects.

(46) "Pediatric cardiac catheterization" means the performance of angiographic, physiologic, and as appropriate, therapeutic cardiac catheterization on children fourteen (14) years of age or younger.

(47) "Person", as defined at O.C.G.A. § 31-6-2(29), means any individual, trust, or estate, partnership, limited liability company or partnership, corporation (including associations, joint-stock companies and insurance companies), state, political subdivision, hospital authority, or instrumentality (including a municipal corporation) of a state as defined in the laws of this State. This term shall include all related parties, including individuals, business corporations, general partnerships, limited partnerships, limited liability companies, limited liability partnerships, joint ventures, nonprofit corporations, or any other for profit or not for profit entity that owns or controls, is owned or controlled by, or operates under common ownership or control with a person.

(48) "Personal Care Home", as defined at O.C.G.A. § 31-6-2(30), 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 twenty-five (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 including 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:

(a) 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

(b) Boarding facilities that do not provide personal care.

(49) "Primary campus" means the building at which the majority of a hospital's or a remote location of a hospital's licensed and operational inpatient hospital beds are located, and includes the health care facilities of such hospital within 1,000 yards of such building. Any health care facility operated under a hospital's license prior to July 1, 2019, but not on the hospital's primary campus shall remain part of such hospital but shall not constitute such hospital's primary campus unless otherwise meeting the requirements of this paragraph.

(50) "Project", as defined at O.C.G.A. § 31-6-2(31), means a proposal to take an action for which Certificate of Need review is required under these Rules. A project or proposed project may refer to the proposal from its earliest planning stages up through the point at which the new institutional health service is offered. In accordance with the definition of "associated with and simultaneously developed or proposed", the Department shall consider simultaneous activities, including, but not limited to, construction, remodeling, development, and acquisitions, unless expressly not included by other provisions of these Rules, which are determined by the Department to be associated with one another, to be a single project.

(51) "Remote location of a hospital" means a hospital facility or organization that is either created by, or acquired by, a hospital that is the main provider for the purpose of furnishing inpatient hospital services under the name, ownership, and financial and administrative control of the main provider.

(52) "Rural county" means a county having a population of less than 50,000 according to the United States decennial census of 2010 or any future such census.

(53) "Service-specific Rule" means those rules that are part of Ga. Comp. R. & Regs. r. 111-2-2 that regard specific clinical health care services as outlined at Ga. Comp. R. & Regs. r. 111-2-2-.20 et seq.

(54) "Single specialty ambulatory surgical center" means an ambulatory surgical center where surgery is performed in the offices of an individual private physician or single group practice of private physicians if such surgery is performed in a facility that is owned and operated by the individual private physician or single group practice of private physicians who are also of a single specialty; such ambulatory surgical center shall only be utilized by physicians who are of the same single specialty, who may include physicians who are not owners or employees of the individual private physician or single group practice of private physicians that own and operate the center; provided, however, that general surgery, a group practice which includes one or more physiatrists who perform services that are reasonably related to the surgical procedures performed in the center, and a group practice in orthopedics which includes plastic hand surgeons with a certificate of added qualifications in Surgery of the Hand from the American Board of Plastic and Reconstructive Surgery shall be considered a single specialty. Nothing in this paragraph shall prohibit an individual private physician or a single group practice of private physicians from entering into an arrangement with an outside entity for practice management, administrative services, or both.

(55) "Skilled nursing facility", as defined at O.C.G.A. § 31-6-2(34), means a public or private institution or a distinct part of an institution which is primarily engaged in providing inpatient skilled nursing care and related services for patients who require medical or nursing care or rehabilitation services for the rehabilitation of injured, disabled, or sick persons.

(56) "Specialty hospital" means a hospital that is primarily or exclusively engaged in the care and treatment of one of the following: patients with a cardiac condition, patients with an orthopedic condition, patients receiving a surgical procedure, or patients receiving any other specialized category of services defined elsewhere in these Rules. A "specialty hospital" does not include a destination cancer hospital or a general cancer hospital.

(57) "State health plan", as defined at O.C.G.A. § 31-6-2(36), means a comprehensive program based on recommendations by the Health Strategies Council and the board, approved by the Governor, and implemented by the State of Georgia for the purpose of providing adequate health care services and facilities throughout the State. The State Health Plan is divided into a series of component plans The Department shall review and update the state health plan at least every five years beginning no later than January 1, 2025, to ensure the plan meets the evolving needs of the state.

(58) "Substantial equivalent of a project" means a proposal to take an action for which a letter of determination is sought under these Rules. A substantial equivalent of a project may refer to the proposal from its earliest planning stages up through the point at which the service is offered. In accordance with the definition of "associated with and simultaneously developed or proposed", the Department shall consider simultaneous activities, including, but not limited to, construction, remodeling, development, and acquisitions, unless expressly not included by other provisions of these Rules, which are determined by the Department to be associated with one another, to be a single substantial equivalent of a project.

(59) "Threshold" means the dollar amount of capital expenditures.

(a) In calculating the dollar amounts of a proposed project for purposes of 111-2-2-.01(54) and (36) of these Rules, the capital costs of all items subject to review by these Rules and items not subject to review by these Rules associated with and simultaneously developed or proposed with the project shall be counted;

(b) The following threshold amounts are effective as of July 1, 2024:

1. **Reserved**;

2. **Reserved**;

3. The physician-owned, single-specialty, office-based ambulatory surgery center threshold of Ga. Comp. R. & Regs. r. 111-2-2-.01(54) is $2.5 million;

4. The joint venture ambulatory surgical center threshold of Ga. Comp. R. & Regs. r. 111-2-2-.01(36) is $5 million;

With respect to (b)3. and 4. above, beginning on July 1, 2009, the Department shall update or adjust this CON threshold amount by the annual percentage of change in an appropriate composite price index that, in the judgment of the Department, represents national construction prices for the preceding calendar year such as those published by the Department of Commerce of the United States government or other government agency;

Diagnostic or other imaging services that are not offered in a hospital or in the offices of an individual private physician or single group practice of physicians exclusively for use on patients of that physician or group practice shall be deemed to be a new institutional health service regardless of the cost of the equipment except as provided in O.C.G.A. § 31-6-47 AND Ga. Comp. R. & Regs. 111-2-2-.03 and exclusive of the expenditure or commitment of or incurring an obligation for the expenditure of funds to develop Certificate of Need applications, studies, reports, schematics, preliminary plans and specifications or working drawings, or to acquire sties.

(c) For purposes of computing the capital expenditure threshold of the physician-owned, single specialty ambulatory surgical center threshold of Ga. Comp. R. & Regs. r. 111-2-2-.03(21) and the joint venture ambulatory surgical center threshold of Ga. Comp. R. & Regs. r. 111-2-2-.03(22), the Department shall include, but not be limited to, the following guidelines:

1. Pursuant to the definition of "associated with and simultaneously developed or proposed", the total cost of all associated capital expenditures for items to be obligated for or purchased within a six (6) month period for a single program, service, plan, or project, regardless of whether or not the cost of any individual item is in excess of the capital expenditure threshold and regardless of whether or not the expenditure or item is otherwise reviewable under these Rules or the CON Statute, is included in the computation;

2. The cost of depreciable equipment that is not used for diagnosis or treatment, such as office equipment, usual business equipment, and office and waiting room furniture, is included in the computation, if such items are associated with and simultaneously developed or proposed with the project. If such furnishing and equipment are used, the cost that shall be used in calculating the threshold shall be the depreciated value or current market value of the furnishings or equipment, whichever is greater;

3. The cost of normal inventories of supplies, such as glassware, chemicals, drugs, linens, and paper, is exempt from the computation as an operating expense;

4. The value of the facilities to be acquired by lease, gift, donation or other means is based on a current (within six (6) months) appraisal of the facility, except that the value of newly constructed facilities shall be based on the actual square footage cost to construct the facility;

5. For facilities that are acquired by lease, the computation of value shall be based on the rentable square footage of the facility and not the useable square footage. Notwithstanding this Rule, lease payments shall be considered to be operating expenses for leases other than capital leases;

6. For facilities that are only partly occupied by a person, the computation shall include a pro-rata share of the value of the common space, unless the rentable square footage is provided as required by 5. above and that rentable square footage already includes an allocation for common space, as documented by the lease agreement; and

7. In the case of a gift or donation, the value of equipment, furnishings or facilities is the fair market value of the equipment, furnishings, or facilities;

(d) For purposes of computing the equipment threshold Ga. Comp. R. & Regs. r. 111-2-2-.01(42)(f), the Department shall include, but not be limited to, the following guidelines:

1. The cost of diagnostic, therapeutic, or other imaging equipment includes all capital costs, expenditures, charges, fees and assessments which are reasonably necessary to put the equipment into use for the purposes for which the equipment was intended, including but not limited to the following expenses:

(i) Any expense incurred for the purchase of a warranty on the diagnostic, therapeutic, or other imaging equipment from the manufacturer or vendor for the first five years of operation;

(ii) Any expense incurred for operator training;

(iii) Any expense incurred for installation and assembly of the equipment;

(iv) Any expense incurred for transportation and insurance costs pertaining to the purchase and/or delivery of the equipment;

(v) Any expense incurred for functionally related diagnostic, therapeutic or other imaging equipment, such as, but not limited to, water chillers, surge protectors, laser cameras, computer workstations, etc.

(vi) Any expense incurred for any options, extra packages, or accessories to be used in the operation of the equipment;

(vii) Any expense incurred for RF shielding, lead shielding, magnetic shielding necessary to protect patients or staff in the operation of the equipment;

(viii) Any dollar amount attributable to service contracts for the first five (5) years of operation;

(ix) Any dollar amount attributable to volume or bulk purchase discounts given to the party requesting a letter of determination by the manufacturer or vendor of the equipment;

(x) For mobile units of equipment, expenditures and values associated with the motor coach, trailer, van, rig, or other form of modular or transitional housing shall be included in the computation of the threshold;

2. The acquisition by whatever means of one or more items of functionally related diagnostic, therapeutic, other imaging equipment shall be considered as one project. The acquisition of functionally related accessories shall also be counted. Pursuant to the definition of "functionally related diagnostic, therapeutic, or other imaging equipment", any individual components or pieces of diagnostic, therapeutic, or other imaging equipment, which depend on one another in order to function and that are purchased within a six (6) month period, shall be considered in the aggregate in calculating the threshold;

3. Diagnostic, therapeutic, or other imaging equipment shall include single and multiple units of equipment, if such units are associated with and simultaneously developed or proposed with one another. Pursuant to the definition of "associated with and simultaneously developed or proposed", the Department may determine that individual pieces or units of diagnostic, therapeutic, or other imaging equipment are associated with one another if such pieces or units of equipment are used for the same or similar health services and if such pieces or units of equipment are developed, proposed, or acquired simultaneously. Such associated and simultaneous units purchased within a six (6) month period shall be aggregated to calculate the threshold;

4. Purchase or lease shall include purchases, contracts, encumbrances of funds, lease arrangements, conditional sales or a comparable arrangements that purport to be a transfer of ownership in whole or in part;

5. In the case of a lease, loan, or gift, the value of the diagnostic, therapeutic, or other imaging equipment is the fair market value of the diagnostic, therapeutic, or other imaging equipment, as evidenced by documentation from a reputable vendor or manufacturer.

(60) "Uncompensated indigent or charity care" means the dollar amount of "net uncompensated indigent or charity care after direct and indirect (all) compensation" as defined by, and calculated in accordance with, the Department's Hospital Financial Survey and related instructions.

(61) "Urban county" means a county having a population equal to or greater than 50,000 according to the United States decennial census of 2010 or any future such census.

Cite as Ga. Comp. R. & Regs. R. 111-2-2-.01

AUTHORITY: O.C.G.A. §§ 31-2 et seq., 31-6 et seq.

HISTORY: Original Rule entitled "Definitions" adopted. F. Dec. 16, 2004; eff. Jan. 5, 2005.

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Amended: F. Mar. 11, 2022; eff. Mar. 31, 2022.

Note: Rule 111-2-2-.01, the incorrect version of the Rule was inadvertently filed (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) and appeared on the Rules and Regulations website April 28, 2022 through March 12, 2023. The correct version, as promulgated and adopted on March 10, 2022, was updated on the Rules and Regulations website March 13, 2023, the original filed and effective dates (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) were retained, as requested by the Agency. Effective March 10, 2023.

Amended: F. Dec. 24, 2024; eff. Jan. 13, 2025.

111-2-2-.02 Nature of Certificate of Need

(1) **Purpose**. The purpose of the Certificate of Need evaluation process is to ensure that adequate health care services and facilities are developed in an orderly and economical manner and are made available to all Georgians and that only those health care services that are found to be in the public interest shall be provided in the State. The goals are to:

(a) Review proposed health care services;

(b) Contain health costs;

(c) Promote economic value;

(d) Ensure compatibility of health care services with the needs of various areas and populations of Georgia; and

(e) Prevent unnecessary duplication or services.

(1.1) Any new institutional health service shall be required to obtain a certificate of need pursuant to O.C.G.A. 31-6 and Ga. Comp. R. & Regs. r. 111-2-2.

(2) **Contents.** The certificate, or attachments, shall specify, but not be limited to:

(a) the scope of the project;

(b) the defined location of the project;

(c) the person to whom the certificate was issued;

(d) the maximum capital expenditure, if any, which may be obligated under the certificate;

(e) the service area of the project;

(f) the valid dates;

(g) the schedule of time periods to be followed in making the service or equipment available or in completing the project;

(h) the services or units of services, which have been approved; and

(i) when the progress reporting requirements under Ga. Comp. R. & Regs. r. 111-2-2-.04(2) and Ga. Comp. R. & Regs. r. 111-2-2-.02(5) are due.

(3) **Validity.** A Certificate of Need shall be valid only for the defined scope, physical location, cost, service area, and person named in the application as the applicant.

(4) **Non-transferability.** A Certificate of Need shall not be transferable or assignable, nor shall a project for which a Certificate of Need has been issued be transferred from or assigned by one person to another, except under the following circumstances:

(a) the death of the holder of the Certificate, provided the transfer is solely from the estate of the holder to his or her heirs; or

(b) an existing licensed health care facility to which a Certificate has been issued is acquired by another person, in which instance the Certificate shall be valid for the person who acquires the facility and for the scope, location, cost, and service area previously approved by the Department.

(5) **Effective Period.** Unless otherwise provided by a service-specific rule, or unless the Department in accordance with Ga. Comp. R. & Regs. r. 111-2-2-.02(7) has extended the effective period, the effective period of a Certificate of Need shall be as follows:

(a) Certificates involving neither construction nor equipment acquisition shall be effective for twelve (12) months;

(b) Certificates solely involving acquisition of equipment shall be effective for twelve (12) months, by which date the applicant must be in possession of the equipment; and

(c) Certificates for projects involving construction shall be effective based on a reasonable, phased timetable presented in the application, which may be amended during the review cycle, as planned, developed, proposed, and submitted by the applicant. In determining the reasonableness of the proposed phases and time periods, the Department will be guided by the applicable horizon year for the project. However, in appropriate circumstance, the Department may approve an effective period in excess of the applicable horizon year. The approved and valid phases and effective period shall be included in the Certificate of Need. When the Department extends the effective period pursuant to Ga. Comp. R. & Regs. r. 111-2-2-.02(7) or when, due to an appeal of a project, a project's effective date is not the approved date, the Department will update the effective period, including the horizon year, of the project accordingly.

(6) **Initial 12-month Implementation Period for Projects Involving Construction.** Unless otherwise provided in a service-specific rule or unless the Department in accordance with Ga. Comp. R. & Regs. r. 111-2-2-.02(7) has extended the initial 12-month implementation period, all projects involving construction regardless of the dollar amount must, within twelve (12) months of the effective date of the certificate, demonstrate, as evidenced by a progress report (as described at Ga. Comp. R. & Regs. r. 111-2-2-.04(2) and supporting documentation, substantial performance in beginning the project. Substantial performance shall be demonstrated by the following:

(a) The construction plans have been approved by the Department's Architect;

(b) The construction contract has been signed and specifically indicates beginning and completion dates; and

(c) Construction materials and equipment are on site.

(7) Extension of Time Periods. The Department may, upon written request of the certificate holder, grant an extension of the effective period of a Certificate of Need or of the initial 12-month implementation period if the applicant's request is received by the Department 30 days prior to expiration of the Certificate of Need or of the initial 12-month implementation period, as applicable.

(a) A request for an extension of the initial 12-month implementation period, or any extension thereof, shall demonstrate:

1. that failure to perform as required is caused by circumstances beyond the control of the certificate holder. Occurrences that may justify an extension of the initial 12-month implementation period may include, without limitation, fire, flood, explosion, catastrophic weather conditions, riots or other civil disturbances, work stoppages or strikes, zoning or permitting changes, and similar occurrences. Ordinarily, lack of adequate or accurate planning, uncertainty as to reimbursement and/or financial difficulties will not justify an extension of the implementation period;

2. that the certificate holder has made substantial and timely progress in implementing the project. In order to show substantial and timely progress in implementing the project, the certificate holder must show that the project was on schedule and could reasonably have been implemented during the initial 12-month implementation period or extension thereof, but for the occurrence or circumstance beyond the certificate holder's control;

(b) A request for an extension of the effective period of a Certificate of Need, or any phase or extension thereof, shall:

1. demonstrate that failure to perform as required is caused by circumstances beyond the control of the certificate holder. Occurrences that may justify an extension of the effective period, or any phase or extension thereof, may include, without limitation, fire, flood, explosion, catastrophic weather conditions, riots or other civil disturbances, work stoppages or strikes, zoning or permitting changes, and similar occurrences.

2. demonstrate that but for the circumstance beyond the control of the certificate holder, the project, or phase thereof, would have been completed within the effective period;

3. demonstrate that the certificate holder has made substantial and timely progress in completing the project, or phase thereof;

4. indicate the expected completion date of the project, or phase thereof, as applicable; and

5. affirm that the project, or phase thereof, will be completed within the requested extension period.

(c) The length of an extension of the effective period or of the initial 12-month implementation period of a Certificate of Need shall be determined by the Department and shall be reasonable and consistent with the circumstances. In no case, shall the Department extend the initial 12-month implementation period of a Certificate of Need beyond an additional 12 months.

(d) In circumstances where the certificate holder is precluded from normal progression due to litigation involving the Certificate or where the method of financing is precluded by litigation, the Department may, at its discretion, suspend any or all of the time periods specified herein until the litigation has been resolved.

(8) **Expiration and Cancellation**. If, within the effective period specified in Ga. Comp. R. & Regs. r. 111-2-2-.02(5) and initial 12-month implementation period specified in Ga. Comp. R. & Regs. r. 111-2-2-.02(6), as applicable, the required performance standards are not met, the Certificate will be deemed to have expired unless an extension has been obtained from the Department pursuant to Ga. Comp. R. & Regs. r. 111-2-2-.02(7). Unless the certificate holder demonstrated good cause not to deem the Certificate to have expired, which shall be determined by the Department, the Certificate will be canceled and notifications of same issued to the applicant, local governing authorities, Regional Development Center, and a newspaper of general circulation in the area where the application originated. An applicant whose Certificate has expired may not resubmit an application for the same or a substantially similar project until at least 120 days after expiration of the Certificate.

(9) **Modification by Operation of Law of Certificate for Failure to Complete**. Upon expiration of the effective period, if a certificate holder has not completed all activities or has not implemented all services or units of services granted in the Certificate of Need issued on the approved date (or if appealed, the effective date), the Certificate

shall be modified upon such expiration to include and be valid for only those activities, services, or units of services, which have been completed and implemented as of the date of expiration.

Cite as Ga. Comp. R. & Regs. R. 111-2-2-.02

AUTHORITY: O.C.G.A. §§ 31-2 et seq., 31-6 et seq.

HISTORY: Original Rule entitled "Nature of Certificate of Need" adopted. F. Dec. 16, 2004; eff. Jan. 5, 2005.

Amended: F. Mar. 11, 2022; eff. Mar. 31, 2022.

Note: Rule 111-2-2-.02, the incorrect version of the Rule was inadvertently filed (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) and appeared on the Rules and Regulations website April 28, 2022 through March 12, 2023. The correct version, as promulgated and adopted on March 10, 2022, was updated on the Rules and Regulations website March 13, 2023, the original filed and effective dates (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) were retained, as requested by the Agency. Effective March 10, 2023.

Amended: F. Dec. 24, 2024; eff. Jan. 13, 2025.

111-2-2-.03 Exemptions from Review

The following shall not be subject to Certificate of Need review and shall be exempted from the provisions of these Rules regarding Certificate of Need Review except as otherwise provided:

(1) infirmaries operated by educational institutions for the sole and exclusive benefit of students, faculty members, officers, or employees thereof;

(2) infirmaries or facilities operated by businesses for the sole and exclusive benefit of officers or employees thereof, provided that such infirmaries or facilities make no provision for overnight stay by persons receiving their services;

(3) institutions operated exclusively by the federal government or by any of its agencies;

(4) offices of private physicians or dentists, as determined in the sole discretion of the Department, whether for individual or group practice except as otherwise provided in Ga. Comp. R. & Regs. r. 111-2-2-.01(54) and Ga. Comp. R. & Regs. r. 111-2-2-.01(42)(f). Simple ownership of a facility by a practitioner or a group of practitioners of the healing arts does not, in and of itself, exempt such facility from the scope of these Rules. Seeking licensure of a place, building, or facility as a health care institution is inconsistent with an assertion that such place, building, or facility is being occupied exclusively as the office of private physicians or dentists. Therefore, any person who seeks licensure as a health care facility must secure a Certificate of Need if a new institutional health service is being offered or developed;

(5) Religious, nonmedical health care institutions as defined in 42 U.S.C. Section 1395x(ss)(1), listed and certified by a national accrediting organization;

(6) site acquisitions for health care facilities or preparation or development costs for such sites prior to filing a Certificate of Need application;

(7) expenditures related to adequate preparation and development of an application for a Certificate of Need;

(8) the commitment of funds conditioned upon the obtaining of a Certificate of Need;

(9) transfers from one health care facility to another such facility of major medical equipment previously approved under or exempted from Certificate of Need review, except where such transfer results in the institution of a new clinical health service for which a Certificate of Need is required in the facility acquiring said equipment, provided

that such transfers are recorded at net book value of the medical equipment as recorded on the books of the transferring facility;

(10) expenditures for the restructuring or acquisition of existing health care facilities by stock or asset purchase, merger, consolidation, or other lawful means;

(11) the purchase of a closing hospital or of a hospital that has been closed for no more than twelve (12) months by a hospital in a contiguous county to repurpose the facility as a micro-hospital;

(12) capital expenditures otherwise covered by this Chapter required solely to eliminate or prevent safety hazards as defined by federal, state or local fire, building, environmental occupational health, or life safety codes of regulations, to comply with licensing requirements of the Healthcare Facility Regulation Division, or to comply with accreditation standards of the Joint Commission or another nationally recognized health care accreditation body;

(13) all cost overruns are excluded from prior Certificate of Need review and approval

(14) increases in the bed capacity of a hospital up to ten beds or twenty percent (20%) of capacity, whichever is greater, in any consecutive three-year period, in a hospital that has maintained an overall occupancy rate greater than sixty percent (60%) (exclusive of any skilled nursing units or comprehensive inpatient rehabilitation units) for the previous twelve (12) month period;

(15) The acquisition, replacement, or repair of diagnostic therapeutic, or other imaging equipment by any health care facility in existence prior to July 1, 2024, that is not owned by a group practice of physicians or a hospital and that provides diagnostic imaging services so long as it does not result in the offering of any new clinical health services;

(16) An expenditures for the minor or major repair of a health care facility or a facility that is exempt from the requirements of these Rules, parts thereof or services provided therein;

(17) new institutional health services offered by or on behalf of a Health Maintenance Organization, or a health facility controlled, directly or indirectly, by a Health Maintenance Organization or a combination of Health Maintenance Organizations, provided specific and detailed documentation is provided to the Department that one of the following conditions are met:

(a) that seventy-five percent (75%) of the patients who can reasonably be expected to use the service will be individuals enrolled in a Health Maintenance Organization certified by the State of Georgia;

(b) that the service is needed by the Health Maintenance Organization in order to operate efficiently and economically and that it is not otherwise readily accessible to the Health Maintenance Organization because:

1. existing similar services are not available under a contract of reasonable duration;

2. full and equal staff privileges are not available in existing facilities; or

3. arrangements with existing facilities are not administratively feasible;

(18) capital expenditures for a project otherwise requiring a Certificate of Need if those expenditures are for a project to remodel, renovate, replace, or any combination thereof, a medical-surgical hospital and all the following conditions are met:

(a) the hospital has a bed capacity of not more than fifty (50) beds;

(b) the hospital is located in a county in which no other medical-surgical hospital is located;

(c) the hospital has at any time been designated as a disproportionate share hospital by the Department;

(d) the hospital has at least forty-five percent (45%) of its patient revenues derived from Medicare, Medicaid, or any combination thereof, for the immediately preceding three years;

(e) the project has at least eighty percent (80%) of its capital expenditures financed by proceeds of a special purpose county sales and use tax imposed pursuant to Article 3 of Chapter 8 of Title 48;

(f) the proposed replacement hospital is located within a five (5)-mile radius of and within the same county as the hospital's existing facility; and

(g) the project does not result in any of the following:

1. the offering of any new clinical health services;

2. any increase in bed capacity;

3. any redistribution of existing beds among existing clinical health services; and

4. any increase in the capacity of existing clinical health services;

(19) Expenditures for nonclinical projects, including parking lots, parking decks, and other parking facilities; computer systems, software, and other information technology; medical office buildings; administrative office space; conference rooms; education facilities; lobbies; common spaces; clinical staff lounges and sleep areas; waiting rooms; bathrooms; cafeterias; hallways; engineering facilities; mechanical systems; roofs; grounds; signage; family meeting or lounge areas; other nonclinical physical plant renovations or upgrades that do not result in new or expanded clinical health services; and state mental health facilities;

(20) Life plan communities, provided that the skilled nursing component of the facility is for the exclusive use of residents of the life plan community and that a written exemption is obtained from the Department; provided, however, that new sheltered nursing home beds may be used on a limited basis by persons who are not residents of the life plan community for a period up to five years after the date of issuance of the initial nursing home license, but such beds shall not be eligible for Medicaid reimbursement. For the first year, the life plan community sheltered nursing facility may utilize not more than fifty percent (50%) of its licensed beds for patients who are not residents of the life plan community. In the second year of operation, the life plan community shall allow not more than forty percent (40%) of its licensed beds for new patients who are not residents of the life plan community. In the third year of operation, the life plan community shall allow not more than thirty percent (30%) of its licensed beds for new patients who are not residents of the life plan community. In the fourth year of operation, the life plan community shall allow not more than twenty percent (20%) of its licensed beds for new patients who are not residents of the life plan community. In the fifth year of operation, the life plan community shall allow not more than ten percent (10%) of its licensed beds for new patients who are not residents of the life plan community. At no time during the first five (5) years shall the life plan community sheltered nursing facility occupy more than fifty percent (50%) of its licensed beds with patients who are not residents under contract with the life plan community. At the end of the five (5) year period, the life plan community sheltered nursing facility shall be utilized exclusively by residents of the life plan community and at no time shall a resident of a life plan community be denied access to the sheltered nursing facility. At no time shall any existing patient be forced to leave the life plan community to comply with this paragraph. The Department is authorized to promulgate rules and regulations regarding the use and definition of the term "sheltered nursing facility" in a manner consistent with Code section. Agreements to provide continuing care include agreements to provide care for any duration, including agreements that are terminable by either party;

(21) Any single specialty ambulatory surgical center that:

(a) 1. Has capital expenditures associated with the construction, development, or other establishment of the clinical health services which do not exceed $2.5 million; or

2. Is the only single specialty ambulatory surgical center in the county owned by the group practice and has two (2) or fewer operating rooms; provided, however, that a center exempt pursuant to this paragraph shall be required to obtain a certificated of need in order to add any additional operating rooms;

(b) Has a hospital affiliation agreement with a hospital within a reasonable distance from the facility or the medical staff at the center has admitting privileges or other acceptable documented arrangements with such hospital to ensure the necessary backup for the center for medical complications. The center shall have the capability to transfer a patient immediately to a hospital within a reasonable distance from the facility with adequate emergency room services. Hospitals shall not unreasonably deny a transfer agreement or affiliation agreement to the center;

(c) 1. Provides care to Medicaid beneficiaries and, if the facility provides medical care and treatment to children, to PeachCare for Kids® beneficiaries and provides uncompensated indigent and charity care in an amount equal to or greater than two percent (2%) of its adjusted gross revenue, and on or after January 1, 2026, in an amount equal to or greater than the minimum amount established by the Department shall be reviewed by the Department every 12 months; or

2. If the center is not a participant in Medicaid or the PeachCare for Kids® Program, provides uncompensated care to Medicaid beneficiaries and, if the facility provides medical care and treatment to children, to PeachCare for Kids® beneficiaries, uncompensated indigent and charity care, or both in an amount equal to or greater than four percent (4%) of its adjusted gross revenue, and on or after January 1, 2026, in an amount equal to or greater than the minimum amount established by the Department which shall be reviewed by the Department every 12 months; provided, however, single specialty ambulatory surgical centers owned by physicians in the practice of ophthalmology shall not be required to comply with this subparagraph; and

(d) Provides annual reports in the same manner and in accordance with O.C.G.A. § 31-6-70.

Noncompliance with any condition of this paragraph shall result in a monetary penalty in the amount of the difference between the services which the center is required to provide and the amount actually provided and may be subject to revocation of its exemption status by the Department for repeated failure to pay any fines or moneys due to the Department or for repeated failure to produce data as required by O.C.G.A. § 31-6-70 after notice to the exemption holder and a fair hearing pursuant to Chapter 13 of Title 50, the Georgia Administrative Procedure Act. The dollar amount specified in this paragraph shall be adjusted annually by an amount calculated by multiplying such dollar amount (as adjusted for the preceding year) by the annual percentage of change in the composite index of construction material prices, or its successor or appropriate replacement index, if any, published by the United States Department of Commerce for the preceding calendar year, commencing on July 1, 2009, and on each anniversary thereafter of publication of the index. In calculating the dollar amounts of a proposed project for purposes of this paragraph, the costs of all items subject to review by this chapter and items not subject to review by this chapter associated with an simultaneously developed or proposed with the project shall be counted, except for the expenditure or commitment of or incurring an obligation for the expenditure of funds to develop Certificate of Need applications, studies, reports, schematics, preliminary plans and specifications or working drawings, or to acquire sites;

(22) Any joint venture ambulatory surgical center that:

(a) Has capital expenditures associated with the construction, development, or other establishment of the clinical health service which do not exceed $5 million;

(b) 1. Provides care to Medicaid beneficiaries and, if the facility provides medical care and treatment to children, to PeachCare for Kids® beneficiaries and provides uncompensated indigent and charity care in an amount equal to or greater than two percent (2%) of its adjusted gross revenue, and on or after January 1, 2026, in the amount equal to or greater than the minimum amount established by the Department, which shall be reviewed by the Department every 12 months; or

2. If the center is not a participant in Medicaid or the PeachCare for Kids® Program, provides uncompensated care to Medicaid beneficiaries and, if the facility provides medical care and treatment to children, to PeachCare for Kids® beneficiaries, uncompensated indigent and charity care, or both in an amount equal to or greater than four

percent (4%) of its adjusted gross revenue, and on and after January 1, 2026, in an amount equal to or greater than the minimum amount established by the Department which shall be reviewed by the Department every 12 months; and

(c) Provides annual reports in the same manner and in accordance with O.C.G.A. § 31-6-70. Noncompliance with any condition of this paragraph shall result in a monetary penalty in the amount of the difference between the services which the center is required to provide and the amount actually provided and may be subject to revocation of its exemption status by the Department for repeated failure to pay any fines or moneys due to the Department or for repeated failure to produce data as required by O.C.G.A. § 31-6-70 after notice to the exemption holder and a fair hearing pursuant to Chapter 13 of Title 50, the Georgia Administrative Procedure Act. The dollar amount specified in this paragraph shall be adjusted annually by an amount calculated by multiplying such dollar amount (as adjusted for the preceding year) by the annual percentage of change in the composite index of construction material prices, or its successor or appropriate replacement index, if any, published by the United States Department of Commerce for the preceding calendar year, commencing on July 1, 2009, and on each anniversary thereafter of publication of the index. In calculating the dollar amounts of a proposed project for purposes of this paragraph, the costs of all items subject to review by this chapter and items not subject to review by this chapter associated with and simultaneously developed or proposed with the project shall be counted, except for the expenditure or commitment of or incurring an obligation for the expenditure of funds to develop Certificate of Need applications, studies, reports, schematics, preliminary plans and specifications or working drawings, or to acquire sites;

(23) Expansion of services by an imaging center based on a population needs methodology taking into consideration whether the population residing in the area served by the imaging center has a need for expanded services, as determined by the Department in accordance with its rules and regulations, if such imaging center:

(a) Was in existence and operational in this state on January 1, 2008;

(b) Is owned by a hospital or by a physician or a group of physicians comprising at least eighty percent (80%) ownership who are currently board certified in radiology;

(c) Provides three (3) or more diagnostic and other imaging services;

(d) Accepts all patients regardless of ability to pay; and

(e) Provides uncompensated indigent and charity care in an amount equal to or greater than the amount of such care provided by the geographically closest general acute care hospital; provided, however, this paragraph shall not apply to an imaging center in a rural county;

(24) Diagnostic cardiac catheterization in a hospital setting on patients fifteen (15) years of age and older;

(25) Therapeutic cardiac catheterization in hospitals meeting the following criteria:

A hospital that wishes to receive authorization to perform therapeutic cardiac catheterization procedures must:

1. submit a request for a letter of determination on the required form with the proper filing fee between May 1 and May 15 of each year, beginning with calendar year 2009; the sufficiency of the information submitted in the request shall be determined within the administrative discretion of the Department;

2. provide documentation which demonstrates it can perform a minimum of two hundred (200) percutaneous cardiac interventions (PCI) per year by the beginning of the third year of operation of a program, including both elective and primary PCI, with a minimum of thirty-six (36) primary PCI per year beginning the third year of operation;

3. provide documentation to support the criteria referenced in subsection 2 above that includes substantive information on the number of diagnostic cardiac catheterization procedures performed at the hospital, or referred to existing PCI providers by the hospital, in or out of the state of Georgia, in the two (2) calendar years immediately preceding the request;

4. provide documentation that it will have, prior to beginning a PCI program, on active medical staff, at least one (1) interventional cardiologist who will meet the American College of Cardiology (ACC) and American Heart Association (AHA) competency standards, including the performance of at least seventy-five (75) PCI procedures per year;

5. provide documentation that the interventional cardiologist is board certified, or is in the process at the time of the request, of obtaining board certification in Interventional Cardiology from the American Board of Internal Medicine;

6. provide documentation of access to at least one (1) other interventional cardiologist who meets the criteria of subsections 4. and 5. above, to participate in its program on an as-needed basis as determined by the hospital;

7. agree to report annually the data on number of PCI procedures, type, and outcomes to the National Cardiovascular Data Registry Cath/PCI registry;

8. provide documentation to show that one (1) or more interventional cardiologist(s), as qualified in subsections 4., 5. and 6. above, are available to perform primary PCI procedures twenty-four (24) hours a day, seven (7) days a week, three hundred sixty-five (365) days a year;

9. provide documentation one (1) or more interventional cardiologist(s) are required to respond to a call, within the calendar availability specified in subsection 8. above, within sixty (60) minutes;

10. provide documentation that competent and trained nursing and technical cardiac catheterization staff are available at all times and are required to respond in a manner determined by the hospital in conjunction with the interventional cardiologists;

11. provide documentation of a transfer agreement with a tertiary medical facility that has an open heart surgery service to which a patient can be transferred when necessary within a period of sixty (60) minutes, by any means of transportation as chosen by the hospital, from the time the need for transfer is identified;

(i) if the provider of an open heart surgery service within the travel time parameters of this subsection refuses to enter into a transfer agreement with the requesting hospital, the hospital may submit documentation on the reasons given for the denial, and the Department may consider these reasons;

(ii) the Department may allow a requesting hospital to submit a transfer agreement with a provider of an open heart surgery service that is beyond the travel time parameters in this subsection if the reasons given for the denial of a transfer agreement by the tertiary provider are determined by the Department to be unreasonable;

(iii) if the Department determines the reasons for the denial of a transfer agreement by the tertiary provider within the time travel parameters in this subsection are reasonable, the Department may require the requesting hospital to address the reasons for the denial and enter into further negotiations for a transfer agreement prior to receiving a favorable determination from the Department;

12. provide documentation of an agreement with an ambulance service capable of advanced life support and intra aortic balloon pump services and that guarantees a thirty (30) minute or less response time;

13. agree to provide accurate and timely data, including outcomes analysis and formal periodic external and internal case review as required by the Department;

14. provide documentation to show that guidelines for determining patients appropriate for PCI procedures in a setting without on-site open heart backup consistent with C-PORT and ACC standards will be developed and maintained;

15. provide documentation to show the cardiac catheterization laboratory(s) at the requesting hospital is equipped in a manner consistent with C-PORT and ACC guidelines;

16. agree to participate in an elective and primary PCI Development Program at its expense, the successful completion of which will be verified by the Department through the use of an identified third-party; and

17. affirmatively agree authorization to begin a therapeutic cardiac catheterization program is expressly contingent upon successful completion of the development program as referenced in subsection 16. above.

18. no hospital shall unreasonably deny a transfer agreement with another hospital.

(b) Any hospital approved to perform therapeutic cardiac catheterization procedures as a result of a request submitted between May 1 and May 15 of any calendar year after the adoption of this rule, must, between May 1 and May 15, of each subsequent year, submit a request which documents its compliance with the standards of this Rule, and the Department must re-affirm the hospital's current compliance in writing in order for the hospital to continue its therapeutic cardiac catheterization program.

(c) Any administrative proceeding held pursuant to Ga. Comp. R. & Regs. r. 111-2-2-.10(6), in opposition to a Department approval of a request from a hospital to perform therapeutic cardiac catheterization procedures in accordance with the standards established in this section, or in opposition to a Department decision to deny a hospital request to perform therapeutic cardiac catheterization procedures, shall not conduct a de novo review of the Department decision, and such decision shall only be reversed by an administrative hearing officer upon a showing the Department's action was without reason, arbitrary, or capricious;

(26) Infirmaries for facilities operated by, on behalf of, or under contract with the Department of Corrections or the Department of Juvenile Justice for the sole and exclusive purpose of providing health care services in a secure environment to prisoners within a penal institution, penitentiary, prison, detention center, or other secure correctional institution, including correctional institutions operated by private entities in this state which house inmates under the Department of Corrections or the Department of Juvenile Justice;

(27) The relocation of any skilled nursing facility, intermediate care facility, or micro-hospital within the same county, any other health care facility in a rural county within the same county, and any other health care facility in an urban county within a five-mile radius of the existing facility so long as the facility does not propose to offer any new or expanded clinical health services at the new location;

(28) Facilities which are devoted to the provision of treatment and rehabilitative care for periods continuing for twenty-four (24) hours or longer for persons who have traumatic brain injury, as defined in O.C.G.A. § 37-3-1;

(29) The renovation, remodeling, refurbishment, or upgrading of a health care facility, so long as the project does not result in any of the following:

(a) The offering of any new or expanded clinical health services;

(b) Any increase in inpatient bed capacity;

(c) Any redistribution of existing beds among existing clinical health services; or

(30) The acquisition of diagnostic, therapeutic, or other imaging equipment, by or on behalf of:

(a) A hospital; or

(b) An individual private physician or single group practice of physicians exclusively for use on patients of such private physician or single group practice of physicians and such private physician or member of such single group practice of physicians is physically present at the practice location where the diagnostic or other imaging equipment is located at least seventy-five percent (75%) of the time that the equipment is in use.

(31) Any capital expenditures by a hospital at such hospital's primary campus for:

(a) The expansion or addition of the following clinical health services: operating rooms, other than dedicated outpatient operating rooms; medical-surgical services; gynecology; procedure rooms; intensive care; pharmaceutical services; pediatrics; cardiac care or other general hospital services; provided, however, that such expenditure does not include the expansion or addition of inpatient beds or the conversion of one type of inpatient bed to another type of inpatient bed; or

(b) The movement of clinical health services from one location on the hospital's primary campus to another location on such hospital's primary campus.

Pursuant to O.C.G.A. § 31-6-40(c)(1), any person who had a valid exemption granted or approved by the former Health Planning Agency or the Department of Community Health prior to July 1, 2008, shall not be required to obtain a Certificate of Need in order to continue to offer those previously offered services.

(32) New or expanded psychiatric or substance abuse inpatient programs or state funded beds that serve Medicaid and uninsured patients that:

(a) Are open 365 days per year, seven days per week, and 24 hours per day;

(b) Provide uncompensated indigent and charity care in an amount equal to or greater than 3 percent of its adjusted gross revenue, and on and after January 1, 2026, in an amount equal to or greater than the minimum amount established by the department by rule which shall be at least 3 percent, and which shall be reviewed by the department every 12 months;

(c) Participate as providers of medical assistance for Medicaid purposes;

(d) Have hospital affiliation agreements with acute care hospitals within a reasonable distance from the programs or state funded beds or the medical staffs at the programs or state funded beds have admitting privileges or other acceptable documented arrangements with such hospitals to ensure the necessary backup for the programs or state funded beds for medical complications. The programs or state funded beds shall have the capability to transfer a patient immediately to a hospital within a reasonable distance from the programs or state funded beds with adequate emergency room services. Acute care hospitals shall not unreasonably deny a transfer agreement or affiliation agreement with the programs or state funded beds;

(e) Provide annual reports in the same manner as in accordance with Code Section 31-6-70

Noncompliance with any condition of this subsection shall result in a monetary penalty in the amount of the difference between the services which the exemption holder is required to provide and the amount actually provided and shall be subject to revocation of its exemption status by the Department for repeated failure to meet any one or more requirements for exemption, for repeated failure to pay any fines or moneys due to the Department, or for repeated failure to produce data as required by Code Section 31-6-70 after notice to the exemption holder and a fair hearing pursuant to Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." "Expanded" means exceeding a health car facility's total approved inpatient bed capacity through the addition of beds to an existing CON-authorized or exempt or grandfathered freestanding psychiatric and/or substance abuse hospital.

(33) The offering of new or expanded basic perinatal services, as defined in Ga. Comp. R. & Regs. r. 111-2-2-.24(2)(a), by a hospital in a rural county, as defined at Ga. Comp. R. & Regs. r. 111-2-2-.24(2)(k) provided that:

(a) Such services are available 365 days per year, seven days per week, and 24 hours per day;

(b) The hospital participates as a provider of medical assistance for Medicaid purposes;

(c) The hospital has a hospital affiliation agreement with an acute care hospital with at least Level III perinatal services, as defined in Ga. Comp. R. & Regs. r. 111-2-2-.24(2)(c), within a reasonable distance from the hospital providing the perinatal services or the medical staff at the hospital providing the perinatal services has admitting privileges or other acceptable documented arrangements with such acute care hospital to ensure the necessary backup for the hospital providing the perinatal services for medical complications. The hospital providing the

perinatal services shall have the capability to transfer a patient immediately to the acute care hospital within a reasonable distance from the hospital providing the perinatal services with adequate emergency room services. Acute care hospitals shall not unreasonably deny a transfer agreement or affiliation agreement with the hospital providing the perinatal services. This subparagraph shall not apply if the hospital providing the basic perinatal services is itself an acute care hospital with at least Level III perinatal services; and

(d) Provides annual reports in the same manner and in accordance with Code Section 31-6-70;

Noncompliance with any condition of this subsection shall result in a monetary penalty in the amount of the difference between the services which the exemption holder is required to provide and the amount actually provided and shall be subject to revocation of its exemption status by the Department for repeated failure to meet any one or more requirements for the exemption, for repeated failure to pay any fines or moneys due to the Department, or for repeated failure to produce data as required by ode Section 31-6-70 after notice to the exemption holder and a fair hearing pursuant to Chapter 13 of Title 50, the "Georgia Administrative Procedures Act."

(33.1) Any new or expanded building or facility where human births occur on a regular and ongoing basis and which is classified as a birthing center pursuant to Ga. Comp. R. & Regs. r. 111-8-7 *et seq*., provided that:

(a) Services are available 365 days per year, seven days per week, and 24 hours per day;

(b) The birthing center participates as a provider of medical assistance for Medicaid purposes;

(c) The birthing center has a hospital affiliation agreement with an acute care hospital with at least Level III perinatal services within a reasonable distance from the birthing center or the medical staff at the birthing center has admitting privileges or other acceptable documented or medical arrangements with such acute care hospital to ensure the necessary backup for the birthing center for medical complications. The birthing center shall have the capability to transfer a patient immediately to the acute care hospital within a reasonable distance from the birthing center. Acute care hospitals shall not unreasonably deny a transfer agreement or affiliation agreement with the birthing center;

(d) The birthing center:

1. Provides basic perinatal services, as defined at Ga. Comp. R. & Regs. r. 111-2-2-.24(2)(a), which shall include but not be limited to a combination of such services as determined by the department;

2. Meets the standards for certification established by the American Association of Birthing Centers, or equivalent or higher standards as determined by the department;

3. Schedules routine visits and visits with other appropriate providers, as necessary, and tracks patients to verify that services have been received;

4. Prior to 20 weeks gestation, certifies that a patient has been deemed to be a low risk patient, as defined by the department for purposes of this paragraph;

5. Admits and provided services only to patients certified as low risk; and

6. Refers patients to other appropriate providers if, at any point between the 20 weeks gestation certification and antepartum, the birthing center determines that a patient no longer qualifies as a low risk patient for any reason; and

(e) The birthing center provides annual reports in the same manner and in accordance with Code Section 3-6-70;

(f) For purposes of this exemption, "expanded" means any capital renovation or construction project which results in the addition of a birth room as defined at Ga. Comp. R. & Regs. r. 111-8-7-.01(c). Noncompliance with any condition of this subsection shall result in a monetary penalty in the amount of the difference between the services which the exemption holder is required to provide and the amount actually provided and shall be subject to revocation of its exemption status by the Department for repeated failure to meet any one or more requirements for

the exemption, for repeated failure to pay any fines or moneys due to the Department, or for repeated failure to produce data as required by Code Section 31-6-70 after notice to the exemption holder and a fair hearing pursuant to Chapter 13 of the Title 50, the "Georgia Administrative Procedure Act."

(34) A new general acute care hospital in a rural county, as defined at Ga. Comp. R. & Regs. r. 111-2-2-.20(2)(l) that:

(a) 1. Attains status as a teaching hospital, as defined in Ga. Comp. R. & Regs. r. 111-2-2-.20(2)(p) withing 36 months of opening, and maintains such status thereafter; or

2. Obtains verification as a Level I, II, III, or IV trauma center from the American College of Surgeons within 36 months of opening, and maintains such verification thereafter;

(b) Provides emergency, inpatient, and outpatient psychiatric and behavioral health services;

(c) Has an emergency department that is open 365 days per year, seven days per week, and 24 hours per day;

(d) Provides uncompensated indigent and charity care in an amount equal to or greater than 3 percent of its adjusted gross revenue, and on and after January 1, 2026, in an amount equal to or greater than the minimum amount established by the department by rule which shall be no less than 3 percent and which shall be reviewed by the department every 12 months;

(e) Participates as a provider of medical assistance for Medicaid purposes; and

(f) Provides annual reports in the same manner and in accordance with Code Section 31-6-70;

Noncompliance with any condition if this subsection shall result in a monetary penalty in the amount of the difference between the services which the exemption holder is required to provide and the amount actually provided and ball be subject to revocation of its exemption status by the Department for repeated failure to meet any one or more requirements for the exemption, for repeated failure to pay any fines or moneys due to the Department, or for repeated failure to produce data as required by Code Section 3-6-70 after the exemption holder and a fair hearing pursuant to Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

(35) A new acute care hospital where a short-stay general hospital in a rural county, as defined at Ga. Comp. R. & Regs., R. 111-2-2-.20(2)(i), has been closed for more than 12 months and a new replacement hospital has not opened that:

(a) Is locates in the same rural county where the short-stay general hospital was closed;

(b) Has no more than the number of licensed beds that were previously licensed in the closed hospital;

(c) Has an emergency department that is open 365 days per year, seven days per week, and 24 hours per day;

(d) Providers all required clinical health services as generally offered by a short-stay general hospital to meet licensure requirements pursuant to Ga. Comp. R. & Regs. r. 111-8-40 *et seq*.; and

(e) Providers uncompensated indigent and charity care in an amount equal to or greater than 3 percent of its adjusted gross revenue, and on and after January 1, 2026, in an amount equal to or greater than the minimum amount established by the department by rule which shall be no less than 3 percent and which shall be reviewed by the department every 12 months.

Such acute care hospital may provide basic perinatal services as defined at Ga. Comp. R. & Regs. 111-2-2-.24(2)(a);

(36) A new short-stay general hospital to address the underserved population previously served by a short-stay general hospital that was closed within the 48 months preceding the filing of a request for a letter of determination that:

1. Is located within a county with a population of more than 1 million according to the United States decennial census of 2020 or any future such census;

2. Is located within five miles of and in the same county as the main campus of a medical school that is accredited by the Liaison Committee on Medical Education to confer Doctor of Medicine (M.D.) degrees;

3. Has in place at the time of filing of a request for a letter of determination a written agreement to serve as a teaching hospital, as defined at Ga. Comp. R. & Regs. r. 111-2-2-.20(2)(p), for students of the medical school described in division (ii) of this paragraph;

4. Has a maximum number of short-stay general hospital beds not greater that 50 percent of the maximum number of short-stay general hospital beds for which the closed short-stay general hospital had previously been licensed at any time during the 12 months prior to its closure;

5. Has an emergency Department that is open 365 days per year, seven days per week, and 24 hours per day; and

6. Provides uncompensated indigent and charity care in an amount equal to or greater than 3 percent of its adjusted gross revenue, and on and after January 1, 2026, in an amount equal to or greater than the minimum amount established by the department by rule which shall be no less than 3 percent and which shall be reviewed by the Department every 12 months;

(b) An exemption for a new short-stay general hospital under this subsection shall include an exemption for all clinical services and equipment generally utilized at an acute care short-stay general hospital and required for licensure, including, but not limited to, an emergency department; Level II perinatal/neonatal services, including labor, delivery, recovery, and Level II neonatal intermediate care services; diagnostic imaging services; and surgical services; and

(c) For a period of ten years following the issuance of its original license, a new short-stay general hospital approved for an exemption pursuant to this subsection shall be entitled to one or more determinations from the department to add additional short-stay general hospital beds, so long as the total licensed capacity of such hospital does not exceed the maximum number of short-stay general hospital beds for which the closed short-stay general had previously been licensed at any time during the 12 months prior to its closure; and

(37) Transfer of existing beds from one general acute care hospital's primary campus to another general acute care hospital's primary campus within the same hospital system within a 15-mile radius of the original campus, provided that all of the following are satisfied:

(a) Both hospitals involved in the transfer are general acute care hospitals and neither is a specialty hospital;

(b) Both hospitals involved in the transfer are under common ownership or control;

(c) The transferring hospital may not, for a period of 12 months after the transfer is effective, seek to expand the bed type which was transferred; and

(d) The transferring hospital is open and operational at the time of transfer and shall not close within 12 months after the transfer is effective.

(e) Written notice is provided to the Department within thirty (30) calendar days of the transfer confirming the number and types of beds transferred and that the transfer complies with all the requirements of this subsection.

Cite as Ga. Comp. R. & Regs. R. 111-2-2-.03

AUTHORITY: O.C.G.A. §§ 31-2 et seq., 31-6 et seq.

HISTORY: Original Rule entitled "Exemptions from Review" adopted. F. Dec. 16, 2004; eff. Jan. 5, 2005.

Amended: F. Sept. 11, 2008; eff. Oct. 1, 2008.

Amended: F. May 1, 2009; eff. May 21, 2009.

Amended: F. Oct. 19, 2018; eff. Nov. 8, 2018.

Amended: F. Mar. 11, 2022; eff. Mar. 31, 2022.

Note: Rule 111-2-2-.03, the incorrect version of the Rule was inadvertently filed (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) and appeared on the Rules and Regulations website April 28, 2022 through March 12, 2023. The correct version, as promulgated and adopted on March 10, 2022, was updated on the Rules and Regulations website March 13, 2023, the original filed and effective dates (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) were retained, as requested by the Agency. Effective March 10, 2023.

Amended: F. Dec. 24, 2024; eff. Jan. 13, 2025.

111-2-2-.04 Periodic Reports

The availability of accurate, current data is critical for adequate health planning and for the review process. Therefore, all inpatient and outpatient health care facilities and services subject to Certificate of Need review will be required to provide complete and accurate data, in a timely manner, as required by the Department. Pursuant to O.C.G.A. § 31-6-70(a), this reporting requirement shall also apply, beginning July 1, 2008, to all ambulatory surgical centers and imaging centers, whether or not exempt from obtaining a Certificate of Need under O.C.G.A. § 31-6 et seq. and these Rules.

(1) **Annual and Special Questionnaires.**

(a) All CON-regulated facilities and services, as well as all ambulatory surgical centers and imaging centers, whether or not exempt from obtaining a Certificate of Need under these Rules, shall complete and submit certain surveys annually and periodically to the Department, as deemed necessary by the Department.

(b) Any facility offering ambulatory surgery pursuant to the exclusion designated on June 30, 2008, as division (14)(G)(iii) of O.C.G.A. § 31-6-2; any diagnostic, treatment, or rehabilitation center offering diagnostic imaging or other imaging services in operation and exempt prior to July 1, 2008; or any facility operating pursuant to a letter of non-reviewability and offering diagnostic imaging services prior to July 1, 2008, shall:

1. Provide notice to the Department of the name, ownership, location, single specialty, and services provided in the exempt facility; and

2. Beginning on January 1, 2009, provide annual reports in the same manner and in accordance with the provisions of this Rule.

(c) The Department shall publish a notice giving a date when the information responsive to subsection (b)1. of this Rule by December 30, 2008, or the Department does not receive the annual report referenced in subsection (a), and subsection (b)2., of this Rule from a health care facility requiring a Certificate of Need or an ambulatory surgical center or imaging center, whether or not exempt from obtaining a Certificate of Need under these Rules, on or before the date such report is due or receives a timely but incomplete report, the Department shall notify the health care facility or center regarding the deficiencies and shall be authorized to fine such health care facility or center an amount not to exceed $2,000.00 per day for every day up to thirty (30) days and $5,000.00 per day for every day over thirty (30) days for every day the Department has not received a report or an incomplete report has not been sufficiently corrected based on the Department's notice of deficiencies.

(d) Survey notices will be mailed or electronically transmitted by the Department to each such facility. The accurately and fully completed survey, covering the report period indicated, shall be filed with the Department within the time frame specific in the notice. The survey shall be filed with the Department in the electronic format

designated by the Department in the Survey Notice or on the Department's website. The survey shall include an electronic signature as authorized by law, of the chief executive officer or principal administrator of the facility, who shall attest to the accuracy and completeness of the information provided.

(e) Reporting requirements shall also apply to new health facilities and services approved through Certificate of Need review. Generally, new facilities and services will be required to report if approved for operation or occupancy for sixty (60) days or more of the report period.

(f) Surveys submitted to the Department pursuant to these Rules and any service-specific Rules shall not be available for public review until after the deadline for submission for all surveys of that type;

(g) Required surveys submitted for a given period of time may not be revised by the facility or service after the survey filing deadline unless the request for revision is approved by the Department at its sole discretion.

(h) If the Department does not receive an annual report from a health care facility within one hundred eighty (180) days following the date such report was due or receives a timely but incomplete report which is not sufficiently completed within such one hundred eighty (180) days, the Department shall be authorized to revoke the Certificate of Need of the health care facility in accordance with O.C.G.A. § 31-6-45 and Ga. Comp. R. & Regs. r. 111-2-2-.05.

(i) The Department shall make publicly available all annual reports submitted pursuant to O.C.G.A. § 31-6-70 on the Department website. The Department shall also provide a copy of such annual reports to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairpersons of the House Committee on Health and Human Services and the Senate Health and Human Services Committee.

(j) All health care facilities, ambulatory surgical centers, and imaging centers required to submit an annual report pursuant to O.C.G.A. § 31-6-70(a) shall make such annual reports publicly available on their websites.

(2) **Post-Approval Reporting.**

(a) All entities receiving a Certificate of Need shall maintain a valid and accurate mailing and electronic mail address with the Department. Any notification, notice, or letter required by these Rules is deemed to be received by the certificate holder when the Department sends such notification, notice, or letter to the mailing or electronic mail address on file with the Department.

(b) Persons holding Certificates for construction projects shall, within twelve (12) months of the effective date of the Certificate, i.e., at the end of the implementation period, provide a progress report to the Department including documentation of the following:

1. that the construction plans have been approved by the Department;

2. that a construction contract has been signed, specifically indicating beginning and completion dates;

3. that construction materials and equipment are on the site and construction of the project has actually begun.

(c) The Department shall monitor the Certificate of Need holder's progress in completing the project and phases thereof, as applicable, within the effective period as specified at Ga. Comp. R. & Regs. r. 111-2-2-.02(5). Each Certificate of Need issued requires a regular reporting of the different stages of development to completion. All projects approved as presented with phases shall submit a progress report within forty-five (45) days of the completion of each phase. All Certificate of Need projects must satisfy the pertinent reporting requirements or the Certificate shall be subject to revocation. These reports shall include information as to the total dollar amount of capital expenditures that have been obligated under the certificate, and any changes in amounts of proposed or previously obligated capital expenditures or changes to the timing of phases, if approved by the Department in advance. These reports will be made on a form provided by the Department on its website and will be due on the date or dates indicated by the Department on attachments to the Certificate of Need and in subsequent correspondence.

(d) The Department may also request additional reports as often as necessary in order to determine:

1. if the timetable specified in the certificate is being met;

2. if the scope of the project is being completed as described on the certificate and in the application for the Certificate of Need;

3. if the condition(s) of approval, if any, have been satisfactorily met.

Cite as Ga. Comp. R. & Regs. R. 111-2-2-.04

AUTHORITY: O.C.G.A. §§ 31-2 et seq., 31-6 et seq.

HISTORY: Original Rule entitled "Periodic Reports" adopted. F. Dec. 16, 2004; eff. Jan. 5, 2005.

Amended: F. Sept. 11, 2008; eff. Oct. 1, 2008.

Amended: F. Mar. 11, 2022; eff. Mar. 31, 2022.

Note: Rule 111-2-2-.04, the incorrect version of the Rule was inadvertently filed (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) and appeared on the Rules and Regulations website April 28, 2022 through March 12, 2023. The correct version, as promulgated and adopted on March 10, 2022, was updated on the Rules and Regulations website March 13, 2023, the original filed and effective dates (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) were retained, as requested by the Agency. Effective March 10, 2023.

Amended: F. Dec. 24, 2024; eff. Jan. 13, 2025.

111-2-2-.05 Enforcement

(1) Revocation

(a) In the event that the Department has cause to consider revocation of a Certificate, in whole or in part, the Department shall provide notice to the holder of the Certificate and shall hold a hearing to determine whether the holder has:

1. Intentionally provided false information to the Department;

2. Failed to incur a financial obligation in accordance with the Certificate as granted;

3. Failed to implement the project in accordance with the specific purpose(s) for which the certificate was granted or failed to meet the initial twelve (12) month performance standards or failed to request an extension of such standards. For certificates issued on or after July 1, 2008, failed to implement the services or units of services for which the Certificate of Need was issued, and that were outlined in or on the certificate granted, in a timely manner as also outlined in or on the certificate granted, as provided by O.C.G.A. § 31-6-45(a.1);

4. Transferred controlling ownership in the facility before completion of the project without prior written approval of the Department, except as authorized by Ga. Comp. R. & Regs. r. 111-2-2-.02(4);

6. Changed the defined location of the project except as allowed by O.C.G.A. § 31-6-45(a) authorizing change in location under certain conditions;

7. Failed to comply with any and all requirements or conditions of the Certificate;

8. Failed to submit a timely or complete periodic report within 180 days following the date the report is due pursuant to O.C.G.A. § 31-6-70 and as otherwise required by Ga. Comp. R. & Regs. r. 111-2-2-.04;

9. Failed repeatedly to pay any fines or moneys due to the Department;

10. Failed to maintain minimum quality of care standards that are outlined within the Certificate as granted; or

11. Failed to participate as a provider of medical assistance for Medicaid purposes if made a condition of the Certificate as granted pursuant to O.C.G.A. § 31-6-45.2(a).

(b) In the event that there is sufficient evidence to justify revocation of a Certificate, the Department shall provide written notification to the holder, which shall be effective as of the date it is sent electronically by the Department. Notice shall also be provided to the public, to the county or municipal authority and to the appropriate Regional Development Center. Any person whose Certificate is revoked under this Rule is entitled to judicial review, pursuant to O.C.G.A. § 50-13 et seq.

(c) A person whose Certificate of Need has been revoked or denied may not reapply for a Certificate of Need for the same or substantially similar project for at least one hundred twenty (120) days from the date that the revocation or denial becomes final, at which time the person may submit a new application. For purposes of this subparagraph, a decision revoking or denying a Certificate of Need shall become final when the time for appealing that decision expires without an appeal of such decision having been timely filed. If an appeal is timely filed, the decision is not final until the resolution of the administrative appeal, if any.

(d) A person holding a Certificate of Need may voluntarily request revocation of the Certificate without prejudice by submitting such request to the Department in writing.

(e) A health care facility which has a Certificate of Need or is otherwise authorized to operate pursuant to this chapter shall have such Certificates of Need or authority to operate automatically revoked by operation of law without any action by the Department when that facility's permit to operate pursuant to O.C.G.A. § 31-7-4 is finally revoked by order of the Healthcare Facility Regulation Division. For purposes of this subsection, the date of such final revocation shall be as follows:

1. When there is no appeal of the order pursuant to O.C.G.A. § 31-5, the one hundred and eightieth (180th) day after the date upon which expires the time for appealing the revocation order without such an appeal being filed; or

2. When there is an appeal of the order pursuant to O.C.G.A. § 31-5, the date upon which expires the time to appeal the last administrative or judicial order affirming or approving the revocation or revocation order without such appeal being filed.

(f) A certificate shall be subject to revocation for the following failures, without limitation:

1. Failure to incur a project-specific capital expenditure, within the initial twelve (12) month implementation period specified at Ga. Comp. R. & Regs. r. 111-2-2-.02(6) and in the Certificate itself or within an extension implementation period granted by the Department, through initiation of substantial project above-ground construction or lease or purchase of the proposed equipment;

2. Failure to file the required Progress Report(s);

3. Failure to meet the conditions on the face of the Certificate; or

4. Failure to pay any penalty assessed pursuant to O.C.G.A. § 31-6-40.1.

(2) **Sanctions.**

(a) Any health care facility offering a new institutional health service without having obtained a Certificate of Need and which has not been previously licensed as a health care facility shall be denied a license to operate by the Healthcare Facility Regulation Division.

(b) In the event that a new institutional health service is knowingly offered or developed without having obtained a Certificate of Need as required by O.C.G.A. § 31-6 et seq., or by these Rules, or the Certificate of Need for such service is revoked according to the provisions of Ga. Comp. R. & Regs. r. 111-2-2-.05(1), a facility or person may be fined an amount not to exceed $5,000.00 per day up to thirty (30) days, $10,000.00 per day from thirty-one (31) days through sixty (60) days, and $25,000.00 per day after sixty (60) days for each day that the violation of these Rules and O.C.G.A. § 31-6 et seq. has existed and knowingly and willingly continues; provided however, that the expenditure or commitment of or incurring an obligation for the expenditure of funds to take or perform actions not subject to this chapter or to acquire, develop or prepare a health care facility site for which a Certificate of Need application is denied, shall not be a violation of this Chapter and shall not be subject to such a fine. The Commissioner or his designee shall determine, after notice and a hearing if requested, whether the fines provided in the Code section shall be levied.

(c) Any person who acquires a health care facility by stock or asset purchase, merger, consolidation, or other lawful means shall notify the Department of such acquisition, the date thereof, and the names and address of the acquiring person. Such notification shall be made in writing to the Commissioner or his designee within forty-five (45) days following the acquisition and the acquiring person may be fined by the Department in the amount of $500.00 for each day that such notification is late.

(d) The Department may require that any applicant for a Certificate of Need commit to provide a specified amount of clinical health services to indigent or charity, Medicare, Medicaid, PeachCare, and similar patients as a condition for the grant of a Certificate of Need. A grantee or successor in interest of a Certificate of Need or authorization to operate under O.C.G.A. § 31-6 et seq. which violates such an agreement, whether made before or after July 1, 1991, shall be liable to the Department for a monetary penalty in the amount of the difference between the amount of services so agreed to be provided and the amount actually provided. Penalties authorized under this Code section shall be subject to the same notices and hearing for the levy of fines under Ga. Comp. R. & Regs. r. 111-2-2-.05(2)(b).

(e) All hearings under this Section shall be in accordance with the Georgia Administrative Procedure Act. Any person so penalized under this Rule is entitled to judicial review, pursuant to O.C.G.A. § 50-13 et seq.

(f) If the person assessed fails to pay the amount of the assessment to the Department within thirty (30) days after notice of assessment is postmarked to him, or within such longer period, not to exceed ninety (90) days, as the Department may specify, the Department may institute a civil action to recover the amount of the assessment or may revoke the Certificate of Need. The Department may add reasonable interest to the assessment.

(g) For purposes of this Rule, the State of Georgia, acting by and through the Department or any other interested person, shall have standing in any court of competent jurisdiction to maintain an action for injunctive or other appropriate relief to enforce the provisions of this Rule.

(3) **Department's Right to Inspect and Audit**. The Department or an authorized representative or employee designated by the Department shall have the right to inspect and audit any facility, site, location, book, document, paper, files, or other record of the holder of the Certificate of Need or letter of non-reviewability or other determination that is related to any project authorized by the Certificate of Need or letter of non-reviewability or other determination, in order to monitor and evaluate the person's compliance with the terms of issuance of the Certificate of Need or the letter of non-reviewability or other determination. The Department shall have the authority to make public or private investigations or examinations inside or outside of the state of Georgia to determine whether all provisions of O.C.G.A. § 31-6-2 et seq. or any other law, rule, regulation, or formal order relating to the provisions of O.C.G.A. § 31-6-40 in particular, has been violated. Such investigations may be initiated at any time in the discretion of the Department and may continue during the pendency of any action initiated by the Department pursuant to section (1)(a) of this Rule. For the purpose of conducting any investigation or inspection pursuant to this subsection, the Department shall have the authority, upon providing reasonable notice, to require the production of any books, records, or other information related to any Certificate of Need issue.

Cite as Ga. Comp. R. & Regs. R. 111-2-2-.05

AUTHORITY: O.C.G.A. §§ 31-2 et seq., 31-6 et seq.

HISTORY: Original Rule entitled "Enforcement" adopted. F. Dec. 16, 2004; eff. Jan. 5, 2005.

Amended: F. Sept. 11, 2008; eff. Oct. 1, 2008.

Amended: F. Mar. 11, 2022; eff. Mar. 31, 2022.

Note: Rule 111-2-2-.05, the incorrect version of the Rule was inadvertently filed (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) and appeared on the Rules and Regulations website April 28, 2022 through March 12, 2023. The correct version, as promulgated and adopted on March 10, 2022, was updated on the Rules and Regulations website March 13, 2023, the original filed and effective dates (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) were retained, as requested by the Agency. Effective March 10, 2023.

Amended: F. Dec. 24, 2024; eff. Jan. 13, 2025.

111-2-2-.06 Application for Certificate of Need

(1) Letter of Intent. Beginning July 15, 2008, all persons who wish to submit an application for a Certificate of Need for a new institutional health service or health ca re facility, as provided in O.C.G.A. § 31-6-40(a) and (b), must submit a letter of intent notifying the Department of their intent to do so at least twenty-five (25) days prior to submission of the Certificate of Need application. The notice must be in writing, must be submitted via the Department's web portal, and must contain the following information:

(a) Name and address of the legal applicant;

(b) Person to whom inquiries must be addressed;

(c) Name, address of facility, if different from legal applicant;

(d) Proposed project site location with specificity;

(e) Brief summary description of proposal;

(f) Proposed service area; and

(g) Cost of the project.

The Department will not accept any notices of intent submitted by either telephone, facsimile, or electronic mail, pursuant to Ga. Comp. R. & Regs. r. 111-2-2-.06(6). Beginning with the date referenced above, no Certificate of Need application will be accepted without a previously filed letter of intent. The Certificate of Need application must be submitted no later than twenty-five (25) calendar days after the letter of intent has been received by the Department. In the event that the twenty-fifth (25th) calendar day falls either on a weekend or a legal holiday, the twenty-fifth (25th) calendar day shall become automatically the next business day that is neither a weekend nor a legal holiday. If a Certificate of Need application is not submitted as provided herein, it will not be accepted and an applicant filing an application beyond the time period specified will be required to submit a new letter of intent in the manner specified above.

(2) **Contents of Application**. Applications shall contain all relevant data, information and assurances required by the Department. The Department will provide application forms on request, and all applications must be on the form supplied by the Department or a copy thereof, and comply with the content requirements specified thereon. Applications shall provide information including, but not necessarily limited to, the following categories as they relate to the proposed projects:

(a) identification of the applicant;

(b) ownership;

(c) site identification;

(d) compliance with State and local codes and ordinances, including flood hazards;

(e) a detailed and complete description of proposed project;

(f) project justification, including specific documentation of the need (utilizing the Department's data and methodology) that the population to be served has for the project;

(g) staffing and operation;

(h) financial information, which shall include positive evidence of ability to obtain financing, the source of financing, and maximum interest rates, which will be paid to the lender. Applications submitted for or on behalf of a health care institution shall include one copy of the latest audit report (or internal financial statement for investor-owned facilities). Also submitted shall be all pro forma financial data requested in the application;

(i) cost containment and quality of care considerations;

(j) project design and construction schedule including as applicable:

1. Schematic Design Documents meeting the standards defined by the American Institute of Architects in section 2.4.2 of the Standard AIA Contract Language. These Schematic Design Documents shall establish the conceptual design of the Project illustrating the scale and relationship of the Project components. The Schematic Design Documents shall also include a conceptual site plan, if appropriate, and preliminary building plans, sections and elevations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing;

2. A written summary of the Architect's evaluation and planning findings and recommendations meeting the standards defined by the American Institute of Architects in section 2.3 of the Standard AIA Contract Language. This summary shall include, as applicable, an evaluation of the Applicant's program and schedule requirements and budget for the Cost of the Work, each in terms of the other, a preliminary evaluation of the Applicant's site for the Project based on the information provided by the Applicant of site conditions, and the Applicant's program, schedule and budget for the Cost of the Work, and an evaluation of the applicant's proposed method of contracting for construction services; and

3. A detailed description of the proposed timeline and phases for project completion.

(k) a cost estimate prepared by a licensed architect or engineer within the sixty (60) days immediately preceding submission of the application;

(l) documentation from the Healthcare Facility Regulation Division of no uncorrected licensure operational standards in the applicant's facility, if applicable.

(3) **Submittal of Applications.**

(a) Using the Department's web portal, Applicants should submit one (1) copy of the application signed by the applicant or the legal representative of the applicant. Failure to do so will result in non-acceptance of the application.

(b) Applications received after 3:00 p.m. on any business day will be considered to have been received on the next business day. Receipt of the application will be acknowledged in writing by the Department.

(4) **Filing Fee Required.**

(a) Each application for a Certificate of Need review shall be accompanied by a fee, except for the provisions covered in Ga. Comp. R. & Regs. r. 111-2-2-.06(4)(d) and Ga. Comp. R. & Regs. r. 111-2-2-.06(4)(e), the amount of which shall be determined by the following schedule:

1. for applications with a total project cost from zero to $1,000,000.00, the fee shall be $1,000.00; and

2. for applications with a total project cost greater than $1,000,000.00, the fee shall be one-tenth of one percent (.001) of the total cost but not to exceed $50,000.00; and

3. **Reserved**.

(b) For any project, which is to be accomplished by lease, gift or other means of acquisition, the dollar value for purposes of computing the fee will be based on the value of the major medical equipment or facilities to be acquired. The value of the major medical equipment is the expenditure, which would be required for purchase. The value of the facilities to be acquired is based on a current (within six (6) months of the submittal of the Certificate of Need application) appraisal of the property.

(c) Payment of the fee shall be by credit/debit card via the Department's website, certified check, or money order made payable to the State of Georgia and must be received by the Department before an application will be accepted for review. Failure to provide payment of the appropriate fee will result in non-acceptance of the application. Fee payments are collected as general State revenue.

(d) State-owned institutions shall be exempt from payment of a filing fee.

(e) The Department may waive payment of a filing fee, or any portion thereof, for certain hospital authority facilities and for certain public non-profit providers when the Department determines that financial circumstances exist, which would justify such action. A party requesting a waiver must make such request at the time the application is submitted to the Department.

(f) Subject to the Rules in (a) through (e) above, applicants shall submit an additional filing fee for additional information or amendments provided during the review period that increase the cost of the project. For such supplementary information which increases the cost of the project, the amount that shall be submitted is an amount equal to the difference between the calculation of the filing fee based on the total amended project costs as outlined in (a) and the filing fee paid at the time of application, except that in no case shall the amount submitted be less than $500.00. Should such supplementary information decrease the costs associated with a project, the filing fee shall not be reduced or refunded. The Department shall not issue decisions on applications for which such supplementary information has been provided where an applicant has not submitted the additional filing fee, as applicable.

(5) **Review for Completeness.**

(a) The Department will have 120 days to review an application, beginning on the day the application is received.

(b) The Department shall notify the applicant with seven (7) calendar days following receipt of the application that the application is complete as submitted or that additional information is required to complete the application. If additional information is required, the notice shall include a statement of the specific additional information required. Notice shall be effective the date it is sent electronically by the Department.

(c) The Department shall notify the applicant no later than seven (7) calendar days following receipt of the additional information whether such additional information is sufficient to complete the application.

(d) The Department will deem an application to be withdrawn if the applicant fails to provide the Department with information sufficient to complete the application, as requested on a notice of incompleteness, by the 15th calendar of the review cycle.

(e) An application will be determined to be incomplete if any of the following were not either provided with the application or as may be specified in this Section, submitted previously to the Department:

1. all the required data, information and assurances provided on the correct forms, including but not limited to the following:

(i) detailed description of the proposed project as required by Ga. Comp. R. & Regs. r. 111-2-2-.06(2)(e);

(ii) financial program to meet the requirements of Ga. Comp. R. & Regs. r. 111-2-2-.06(2)(h);

(iii) documentation of necessary financing for the project, such as a letter of credit, etc.;

(iv) financial pro forma to meet the requirements of Ga. Comp. R. & Regs. r. 111-2-2-.06(2)(h); and

(v) most recent audited financial statements, or personal financial statements if audited statements are not available (tax returns would meet this requirement for unaudited entities and individuals);

(vi) for projects invoking service-specific Rules, as outlined in Ga. Comp. R. & Regs. r. 111-2-2-.20 et seq., the appropriate service-specific review considerations;

(vii) for projects involving construction, renovation, and/or expansion, schematic plans and cost estimates certified by an architect, engineer, or general contractor, as appropriate and as required by Ga. Comp. R. & Regs. r. 111-2-2-.06(2)(j) and (k);

(viii) for projects involving the acquisition of equipment, purchase orders or invoices, as appropriate;

2. signature of the applicant;

3. payment of the filing fee, as described in Ga. Comp. R. & Regs. r. 111-2-2-.06(4);

4. the most recent three (3) years of all required surveys, as may be previously submitted to the Department, including the Annual Hospital Questionnaire, Annual Nursing Home Questionnaire, survey of home health agencies, or other data-gathering instruments required by the Department for any health care facilities and services owned or operated by the applicant, to include data requested pursuant to O.C.G.A. § 31-6-70. In order for an application to be deemed complete, such surveys and data-gathering instruments shall be complete and accurate, as determined by the Department. Further, an application submitted by a component of an entity which owns or operates other health care facilities will be determined to be incomplete unless all health care facilities under the same ownership or operation have submitted completed questionnaires with to Department;

5. written verification certifying entitlement to any necessary real estate property or leasehold as described by the applicant in the application. Verification of entitlement shall include, but not be limited to, deeds, contracts, lease arrangements, conditional sales agreements or a comparable arrangement that purports to be a transfer of ownership in whole or in part. If an unsigned lease arrangement is submitted, the Applicant shall also submit an original letter documenting both the lessor's and lessee's commitment to participate in the lease once the CON is approved;

6. authorization to conduct business, including but not limited to, as appropriate:

(i) if the applicant is an entity requiring authorization by the Secretary of State to become a legal entity entitled to do business in the State of Georgia, such documentation;

(ii) by-laws, articles of incorporation, or articles of organization; and

(iii) if the applicant is an existing and licensed or permitted entity, a copy of such license or permit.

7. The applicant shall file one copy of the application with the office of the County Commissioner of the county in which the project exists or is proposed. The applicant shall submit with the application an exact copy of the letter addressed and submitted to the County Commission that accompanied the submittal of the application to the County Commission;

8. all post-approval reporting requirements as mandated at Ga. Comp. R. & Regs. r. 111-2-2-.04(2) for all previously approved projects, as may be previously submitted to the Department. Further, an application submitted by a component of an entity which owns or operates other health care facilities will be determined to be incomplete unless all health care facilities under the same ownership or operation have met the said post-approval reporting requirements for all previously approved projects with the Department;

9. the written vendor lobbyist certification required by Ga. Comp. R. & Regs. r. 111-1-2-.03(2);

10. In order to be determined complete, an applicant must be current will all indigent and charity care commitments, if any, made to the Department as a condition or requirement for past approval of a project. Further, an application submitted by a component of an entity which owns or operates other health care facilities will be determined to be incomplete unless all health care facilities under the same ownership or operation are current with any and all indigent and charity care commitments made to the Department; and

11. In order to be determined complete, an applicant must be current with any and all fines, if any, levied by the Department for violation of these Rules.

12. No applicant for a new Certificate of Need, a modification to an existing Certificate of Need, or a conversion of a Certificate of Need that has any outstanding amounts owed to the state including fines, penalties, fees, or other payments for noncompliance with any requirements contained in O.C.G.A. §§ 31-6-40.1, 31-6-45.2, 31-6-70, 31-7-280, or 31-8-179.2 shall be eligible to receive a new Certificate of Need or a modification to an existing Certificate of Need unless such applicant pays such outstanding amounts to the state. Any such fines, penalties, fees, or other payments for noncompliance shall be subject to the same notices and hearing for the levy of fines under O.C.G.A. § 31-6-45.

(f) In addition to the provisions of a paragraph (b) above, additional requirements shall be in effect where the application involves the acquisition of a hospital owned or operated by or on behalf of a political subdivision, any combination of such subdivisions, or by or on behalf of a hospital authority. These requirements shall be as follows:

1. in the event that a health care facility, which has been assisted at any time during the past twenty years through a grant of State funds, is proposed to be acquired by a non-grant-eligible entity, the Department, in accordance with O.C.G.A. §§ 31-7-53(c) and 31-7-57(d), is required to recover the funds granted by the State. A commitment regarding return to the State of such monies consistent with the Code should be forwarded to the Department no later than the end of the review period.

2. there shall be submitted a written agreement between the parties containing the following commitments:

(i) that the purchaser or lessee will annually allocate funds for the purpose of providing indigent/charity care. The funds allocated will be no less than three percent (3%) of the gross revenues of the hospital after provisions for bad debt and Medicaid and Medicare contractual adjustments have been deducted. The funds allocated will be based on the previous year's financial records, except the first year of operation following an acquisition the three percent (3%) will be based on the gross revenues of the hospital after provisions for bad debt and Medicaid and Medicare adjustments have been deducted. For purposes of this Rule; gross revenues will include all income derived from all sources;

(ii) that the purchaser will agree that no resident of the county in which the hospital resides will be denied emergency care (including emergency obstetrical care) due to inability to pay;

(iii) that the purchaser will participate in the Medicaid and Medicare programs and the State Health Benefit Plan, if authorized by the Department.

(6) **Submission of Information and Documents.**

For the purposes of meeting any deadlines imposed by either these Rules or O.C.G.A. § 31-6-1 *et seq*, all information and documents shall be submitted electronically through the Department's designated web portal.

Except as otherwise provided, information and documents received after 5:00 p.m. on any business day will be considered to have been received on the next business day.

Cite as Ga. Comp. R. & Regs. R. 111-2-2-.06

AUTHORITY: O.C.G.A. §§ 31-2 et seq., 31-6 et seq.

HISTORY: Original Rule entitled "Application for Certificate of Need" adopted. F. Dec. 16, 2004; eff. Jan. 5, 2005.

Amended: F. Aug. 28, 2006; eff. Sept. 17, 2006.

Amended: F. Sept. 11, 2008; eff. Oct. 1, 2008.

Amended: F. Mar. 11, 2022; eff. Mar. 31, 2022.

Note: Rule 111-2-2-.06, the incorrect version of the Rule was inadvertently filed (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) and appeared on the Rules and Regulations website April 28, 2022 through March 12, 2023. The correct version, as promulgated and adopted on March 10, 2022, was updated on the Rules and Regulations website March 13, 2023, the original filed and effective dates (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) were retained, as requested by the Agency. Effective March 10, 2023.

Amended: F. Dec. 24, 2024; eff. Jan. 13, 2025.

111-2-2-.07 Review Procedures

(1) **Beginning of Review Process.**

(a) When an application is deemed by the Department to be complete, the Department shall provide written notice to the applicant of the completeness of the application and the schedule for review. The Department shall provide similar notice to a newspaper of general circulation in the county of the project, to the appropriate Regional Development Center, and to the chief elected official of the county and municipal government, if any, within whose boundaries the proposed project would be located.

(b) The Department will schedule reviews so that, unless joined with another application, no review shall, except as noted in (d) below, take longer than one hundred and twenty (120) days beginning on the day the Department receives the application until the date the decision to issue or not to issue a Certificate of Need is sent electronically to the applicant. Absent good cause, the Department generally will not issue a decision prior to the sixtieth (60th) day of the review cycle.

(c) In the event that, from the time an application is received until the twenty-fifth (25th) calendar day of the review cycle, one or more additional applications are declared complete which involve similar projects in the same or overlapping service areas, the Department may declare that such applications will be joined with the first application for review purposes. Following such joinder, none of the subsequent applications so joined may be considered as a first application for purposes of future joinder. The Department shall notify all applicants whose applications have been joined and shall set a new time parameter for Department actions. The one hundred and twenty (120) day final decision deadline shall run from the latest date that any one of the joined applications was received. Except as otherwise provided in Ga. Comp. R. & Regs. r. 111-2-2-.08(1), such joinder shall be the sole method of comparative review for all applications filed after July 1, 2008.

(d) Where the Department determines that conditions exist which make it impractical to complete a review in one hundred and twenty (120) days, the Department may, on notification to the applicant, extend the time limit another thirty (30) days to one hundred and fifty (150) days. Conditions, including but not limited to the following, may constitute cause for extending the time:

1. The Department anticipates issuance of new demographic or utilization, data affecting the application;

2. The Department has received conflicting or contradictory information necessitating further investigation;

3. Results of impending legal action may have an effect on the application.

(e) For good cause shown, as shall be determined by the Department, a public hearing will be held at a time and location specified by the Department.

1. A request for a public hearing shall be signed by at least fifty (50) residents of the area where the project is located and must be received by the Department within twenty (20) days after the beginning date of the review cycle. The request shall include justification for the public hearing based on circumstances described in this paragraph.

2. To the extent possible, notification will be provided in a newspaper of general circulation in the area where the project is located approximately two weeks in advance of the hearing.

3. Any person desiring to offer testimony at the hearing will be given the opportunity to do so, but the providing of such testimony or evidence shall not confer upon the person or persons so testifying the status of "party" as that term is used in the Administrative Procedure Act.

4. Where distance and the nature of the project warrant, and within the budget constraints of the Department, the public hearing may be held by the Department in the area where the project is proposed to be located. Circumstances, which may indicate good cause for a hearing in the area, include but are not limited to:

(i) Projects, which could have significant effect on access to frequently used services by a sizable population group;

(ii) Projects generating strong conflicting viewpoints by the residents of an area;

(iii) Projects with potential for unusually significant impact on existing services.

5. A summary report of the hearing will be prepared, a copy of which will be sent to the party requesting the hearing and to the applicant. Such report will be made a part of the master record regarding the project. The Department may charge a fee for the summary report.

(f) If during the first thirty (30) days of the review of the application the Department finds there are factors that create a potential for denial of the application, the Department shall, on or before the thirtieth (30th) day of the review period, provide the applicant an opportunity to meet with the Department. The problems with the application will be described and an opportunity offered to amend or to withdraw the application or to submit additional information. The thirty (30) day meeting with the applicant(s) is restricted to the Department and the applicant(s). Parties opposing an application(s) may not attend or participate in an applicant thirty (30) day meeting. Such addition information must be submitted on or before the forty-fifth (45th) day of the review period.

1. "Additional information" is information and data submitted in response to a direct request from the Department at the meeting afforded an applicant on or before the thirtieth day of the review of the application or in response to issues and concerns raised by the Department in said meeting, or in the lack of such a meeting or request by the Department, information and data submitted consistent with the scope, physical location, cost, charges, service, and owners in the originally submitted application. Additional information must be submitted to the Department on or before the forty-fifth (45th) day of the review period;

2. "Amendment" is a revision to the additional information or application as originally submitted that is submitted to the Department no later than the ninetieth (90th) day of the review cycle and that constitutes a change in scope, physical location, cost, charge, service, or owner. The following changes in an application will qualify as an amendment:

(i) A reduction or increase in the proposed physical space capacity; or

(ii) A reduction or increase in the number of proposed beds or service units (e.g., operating rooms); or

(iii) A change in the owners of the legal applicant entity, as long as the legal applicant entity remains the same; or

(iv) A reduction or increase in a proposal's capital or operating costs; or

(v) A change in site within five miles of the site proposed in the original application or within the same service area as long as the population to be served and the service area to be served is not substantially different from that originally proposed as long as the proposed change does not require the application of a new need study or different rules; or

(vi) A reduction or subtraction in the scope of the original application; or

(vii) A change in the amount of commitment to indigent or charity care, projected utilization, financial information or patient charges that do not alter the basic financing or operations of the proposed project.

(g) The Department shall be notified with either a new application or written amendment to the current completed application when there are changes in the scope, physical location, cost, charges, service or owners of the applicant entity. Any revisions that constitute a total change in or addition to the scope of an application, in the location (except for the exemption in Ga. Comp. R. & Regs. r. 111-2-2-.07(1)(f) 2(v), or in the legal applicant that would require the submission of a new application. If the Department determines that the amendment constitutes a total change in either the scope, location, or legal applicant, the original application will be considered to be withdrawn and the applicant will be so notified. An application may be amended by the applicant at any time up to the ninetieth (90th) day of the review cycle.

(g.1) No party may oppose an application for a Certificate of Need for a proposed project unless:

1. Such party offers substantially similar services as proposed within a 35 mile radius, in Georgia, of the proposed project or has a service area in Georgia that overlaps the applicant's proposed service area; or

2. Such party has submitted a competing application in the same batching cycle and is proposing to establish in Georgia the same type of facility proposed or offers, in Georgia, substantially similar services as proposed and has a service area located in Georgia that overlaps the applicant's proposed service area.

(h) Any party, pursuant to O.C.G.A. § 31-6-43(d)(2), who is permitted to oppose an application, or an application(s) joined for review, must submit a notice of opposition, on the form provided by the Department, no later than the thirtieth (30th) day of the review cycle. The notice must contain the information specified by the form. The notice of opposition form submission shall also include one signed original of the written vendor lobbyist certification required by Ga. Comp. R. & Regs. r. 111-1-2-.03(2). The notice of opposition must not contain the substantive arguments against a particular application.

1. Those parties who are opposed to an application will be given an opportunity to meet with the Department at a time and place specified by the Department after a review of the opposition notices. The opposition meeting provided for by O.C.G.A. § 31-6-43(h), shall be held no earlier than the sixtieth (60th) day of the review cycle. The applicant(s) shall be entitled to attend the opposition meeting. Only one designated person on behalf of each party opposed to a particular application will be allowed to speak on behalf of the opposition to said application at the opposition meeting. The time period provided for the opposition spokesperson shall be determined in the sole discretion of the Department. The applicant(s) will not be allowed to speak in rebuttal of the opposition remarks at the opposition meeting. The Department shall make no formal substantive comments regarding the review of the application(s) at the opposition meeting. The opposition parties shall submit via the Department's web portal, substantive written comments and arguments regarding the nature of their opposition to the particular project. The opposition parties must provide one copy of the substantive opposition comments to the applicant at the opposition meeting. In order for an opposing party to have standing to appeal an adverse decision pursuant to O.C.G.A. § 31-6-44, such party must attend and participate in an opposition meeting. Substantive opposition comments must pertain to only one application and one applicant. In no case shall the Department accept substantive opposition comments that concern multiple applicants or applications.

2. Applicants shall be given the opportunity to submit final amendments and/or letters of support for a particular application pursuant to and in compliance with Ga. Comp. R. & Regs. r. 111-2-2-.06(6) via the Department's web portal no later than the ninetieth (90th) day of the review cycle.

3. Applicants shall be given the opportunity to respond to the substantive opposition comments made orally and submitted in writing at the opposition meeting. The last day for the applicant(s) to respond to the opposition meeting comments shall be the seventy-fifth (75th) day of the review cycle. The Department reserves the right, but is not required to, ask the applicant(s) for information in response to the substantive opposition comments. If the Department asks the applicant for information as a result of the comments provided at the opposition meeting, the applicant must submit the information requested no later than seventy-fifth (75th) day of the review cycle.

4. The Department shall provide written notification of its decision to issue or deny a Certificate of Need no later than the one hundred and twentieth (120th) day of the review cycle, or, if the project was extended, no later than the one hundred and fiftieth (150th) day of the review cycle.

(i) The Department, in accordance with the provisions of subsections (k)-(m) below, will give special expedited consideration to the emergency offering of services required solely to cope with a situation posing an immediate threat to the health and safety of patients, visitors, or staff. The General Counsel, or his designee, upon a showing that a proposed replacement facility is critical to the welfare, health and stability of the immediate community as evidenced by written support from the local, county and state governing bodies may, authorize approval based on a request by telephone, with written documentation to be provided later. In the event that the approval requires an application to replace an existing health care facility, the application will not be subject to joinder.

"Emergency expenditures" as set forth in this subparagraph (i) shall include but not be limited to expenditures necessitated by circumstances arising from an authorized hazardous condemnation as well as from acts of God including but not limited to earthquakes, hurricanes, tornados or floods.

(j) Reserved;

(k) Pursuant to the provisions of O.C.G.A. § 31-6-43(g), the Department shall conduct an expedited review with a review period of no longer than (30) thirty days for those projects deemed an emergency. When the Governor has declared a state of emergency in a region of the state, existing health care facilities in the affected region may seek emergency approval from the Department to offer services that may otherwise require a Certificate of Need. The Department shall give special expedited consideration to such requests and may authorize such requests for good cause. Once the state of emergency has been lifted, any services offered by an affected health care facility under this subsection shall cease to be offered until such time as the health care facility that received the emergency authorization has requested and received a Certificate of Need. For purposes of this subsection, the term "good cause" means that authorization of the request shall directly resolve a situation posing an immediate threat to the health and safety of the public.

(l) The Department shall issue a decision on applications for a Certificate of Need for emergency projects as provided in subsection (k) above, no later than thirty (30) days after the application has been received; failure to issue the decision on or before the thirtieth (30th) day after it has been received shall result in an automatic approval of the application, subject to subsection (n) below; the decision issued by the Department shall be a summary statement of the findings during the review of the project;

(m) If, during the course of the review period, the Department finds that there are factors that create the potential for denial of the application, the Department shall immediately discontinue its emergency review, notify the applicant in writing of that decision, and review the application in accordance with the applicable non-emergency review procedures set forth in Ga. Comp. R. & Regs. r. 111-2-2-.07.

(n) The review of such projects as outlined in subsections (k) - (m) above shall be governed by the emergency provisions of the referenced subsections and not the provisions of subsections (a) - (h) above.

(o) The filing fee for applications of the type specifically listed in subsections (k) - (n) above shall be $1,000.00, notwithstanding the filing fee provisions of Ga. Comp. R. & Regs. r. 111-2-2-.06(4)(a).

(2) **Department Review.**

(a) In reviewing the application, the Department will take into consideration the review considerations and policies provided in Ga. Comp. R. & Regs. r. 111-2-2-.09. The latest applicable data from official data sources will be used in the Department analysis, unless otherwise provided by a service-specific Rule. Such data sources will include, but not be limited to, the Governor's Office of Planning and Budget, Medicare/Medicaid Cost Reports, and questionnaires or surveys initiated by the Department.

(b) Upon completion of review, the Department shall provide written notification of its decision to issue or deny a Certificate of Need. In the event of a favorable decision, the letter shall serve as the Certificate.

1. Such decision will be issued no later than one hundred twenty (120) days beginning on the day the Department receives the application unless the total review period is extended in accordance with Ga. Comp. R. & Regs. r. 111-2-2-.07(1)(d).

2. The date of the decision shall be the date on the notification letter of the Department.

(c) The decision letter shall contain at least the following:

1. A detailed statement of the findings related to each applicable consideration and standard relevant to the decision to issue or deny a Certificate of Need; and

2. Information pertaining to the availability of an appeal hearing.

(d) The decision shall be to approve or deny the application as submitted or as amended by the applicant during the course of review.

(e) A copy of the notification will be sent to the applicant or, in the case of joined applications, to all applicants, to the appropriate Regional Development Center and to the chief elected official of the applicable county and municipal government, if any. A copy may be made available to other interested persons on request.

(f) Should the Department fail to issue a decision letter on a Certificate of Need application within the time limits set forth in these Rules, the application shall be deemed approved as of the one hundred and twenty-first (121st) day, or the one hundred fifty-first (151st) day if the review period was extended pursuant to Ga. Comp. R. & Regs. r. 111-2-2-.07(1)(d), beginning on the day the Department receives the application, or the last of any applications joined pursuant to Ga. Comp. R. & Regs. r. 111-2-2-.07(1)(c) was declared complete for review.

(g) Appeals of the decision of the Department shall be processed in accordance with rules promulgated by the Certificate of Need Appeal Panel found in Ga. Comp. R. & Regs. Chapter 274.

(h) When a project undergoes judicial review, the Department may stay the effective date of the CON pending the outcome of the judicial review upon appropriate terms for good cause shown.

Cite as Ga. Comp. R. & Regs. R. 111-2-2-.07

AUTHORITY: O.C.G.A. §§ 31-2 et seq., 31-6 et seq.

HISTORY: Original Rule entitled "Review Procedures" adopted. F. Dec. 16, 2004; eff. Jan. 5, 2005.

Amended: F. Nov. 13, 2007; eff. Dec. 3, 2007.

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Amended: F. Mar. 11, 2022; eff. Mar. 31, 2022.

Amended: F. Oct. 14, 2022; eff. Nov. 3, 2022.

Note: Rule 111-2-2-.07, the incorrect version of the Rule was filed on October 14, 2022 (i.e., paragraph (2), "Department Review," was inadvertently omitted). The Rule in its entirety was updated on the Rules and Regulations website June 30, 2023, the original filed and effective dates (i.e., Oct 14, 2022; eff. Nov. 3, 2022.) were retained, as requested by the Agency. Effective June 30, 2023.

Amended: F. Dec. 24, 2024; eff. Jan. 13, 2025.

111-2-2-.08 Alternative Application and Review Procedures

(1) **Batching Review Process**

(a) Pursuant to O.C.G.A. § 31-6-43(e), the Department may limit the time periods during which it will accept applications for the following health care facilities and/or services: skilled nursing facilities; intermediate care facilities; home health agencies, open heart surgical services, pediatric cardiac catheterization and open heart services, perinatal services, freestanding birthing centers, psychiatric and substance abuse services, comprehensive inpatient physical rehabilitation services, ambulatory surgical services, positron emission tomography services, and megavoltage radiation therapy services. Limitation of the time periods shall be to only such times after the Department has determined there is an unmet need for such facilities and/or services, or will accept applications pursuant to any service- specific need standard exceptions. The Department shall make a determination as to whether or not there is an unmet need for each type of facility at least every six (6) months and shall notify those requesting such notification of that determination. No application for the services listed above will be accepted for review by the Department except as provided for pursuant to Ga. Comp. R. & Regs. r. 111-2-2-.08(1). For purposes of batching only, the applications entered into the one hundred twenty (120) day review period shall be evaluated according to the data used to publish the unmet need, or to accept applications pursuant to any service-specific need standard exceptions, for the particular service at issue, for those services listed above, and not the latest available data at the time of decision, as is the case with all non-batched applications.

(b) Upon the determination of an unmet need for a particular facility/service in a given service area, the Department shall provide notice indicating which applications will be considered in that particular batching cycle to all interested parties requesting notice of that determination. It shall be the sole and exclusive responsibility of the interested party to notify the Department in writing of that party's desire to be informed of the Department's unmet need determination(s) for batching purposes. The Department's notice shall contain the unmet need for the type of facility/service in the given service area(s) and shall also contain the pertinent time frames and deadlines for submission of notices of intent to apply, for submission of applications, and the review of such applications.

(c) All parties interested in applying for the particular unmet need in a given service area must notify the Department of that party's intent to apply.

1. The notice must be in writing, submitted via the Department's web portal, and must address specifically the type of unmet need and service area(s) for which the applicant intends to apply.

2. The notice of intent must be received by the Department no later than the close of business on the twenty-fifth (25th) calendar day following the date that the Department publishes the determination of unmet need. In the event that the twenty-fifth (25th) calendar day falls on either a weekend or a legal holiday, the twenty-fifth (25th) calendar day shall become automatically the next business day that is neither a weekend nor a legal holiday.

3. Notwithstanding any other relevant provisions within this Rule, the notice of intent to apply must be received by the Department either before or simultaneously with the submission of the actual application in accordance with the notice of intent deadline.

4. In the event that the Department fails to receive the notice of intent to apply by the stated deadline, the interested party shall be disqualified automatically from applying during that batching cycle.

(d) Subject to the proper submission of a notice of intent to apply, any interested party shall use the Department's web portal to submit an application no later than 12:00 P.M. on the sixtieth (60th) calendar day following the date that the Department publishes the determination of unmet need. In the event that the sixtieth (60th) calendar day falls either on a weekend or a legal holiday, the sixtieth (60th) calendar day shall become automatically the next business day that is neither a weekend nor a legal holiday. For purposes of batching only, all properly submitted applications will be deemed received on the sixtieth (60th) day, regardless of the actual date of submission.

(e) For the purposes of batching only, an application which has been deemed received according to (d) above, will only be deemed properly submitted and complete if the following requirements, in addition to the requirements of Ga. Comp. R. & Regs. r. 111-2-2-.06(5)(b), are met:

1. The appropriate Certification Statement of Completeness is submitted simultaneously with the original application; and

2. All of the items addressed in the Certification Statement of Completeness are provided, as certified, with the original application.

(f) In the event that an application is deemed in receipt by (d) above, but is not deemed to be properly submitted and complete by (e) above by 12:00 PM on the twenty-fifth (25th) calendar day following the date that the Department receives the notice of intent (in the event that the twenty-fifth (25th) calendar day falls either on a weekend or a legal holiday, the twenty-fifth (25th) calendar day shall become automatically the next business day that is neither a weekend nor a legal holiday), the application will be disqualified from the batching review.

(g) The batching review cycle will be conducted in the following manner:

1. The batching review cycle shall be one hundred and twenty (120) days in duration. As a result, no party participating in the batching review process, including the Department, shall either request or be granted an extension of time past the one hundred and twentieth (120th) day.

2. The first day of the batching review cycle shall be the day upon which all properly submitted applications are deemed to be received. [See Ga. Comp. R. & Regs. r. 111-2-2-.08(1)(d) above.]

3. On or before the thirtieth (30th) day of the batching review cycle, the Department shall provide the applicant(s) an opportunity to meet with the Department. The Department will describe any issues with the application and provide an opportunity to the applicant(s) to amend or withdraw the application or to submit additional information. Any and all additional information must be submitted on or before the forty-fifth (45th) day of the batching review cycle. The thirty (30) day meeting with the applicant(s) is restricted to the Department and the applicant(s). Parties opposing an application(s) may not attend or participate in an applicant thirty (30) day meeting.

4. Any party who is opposed to one or more applications submitted during a batching cycle must submit a notice of opposition via the Department's web portal, on the form provided by the Department, no later than thirty (30) days of receipt by the Department of such application. The notice must contain the information specified by the form. The notice of opposition form submission shall also include one signed original of the written vendor lobbyist certification required by Ga. Comp. R. & Regs. r. 111-1-2-.03(2). The notice of opposition must not contain the substantive arguments against a particular application.

Those parties who are opposed to an application will be given an opportunity to meet with the Department at a time and place specified by the Department after a review of the opposition notices. The opposition meeting, provided for by O.C.G.A. § 31-6-43(h), shall be held no earlier than the sixtieth (60th) day of the batching review cycle. The applicant(s) shall be entitled to attend the opposition meeting. Only one designated person on behalf of each party opposed to a particular application will be allowed to speak on behalf of the opposition to said application at the opposition meeting. The time period provided for that opposition spokesperson shall be determined in the sole discretion of the Department. The applicant(s) will not be allowed to speak in rebuttal of the opposition remarks at

the opposition meeting. The Department shall make no formal substantive comments regarding the review of the application(s) at the opposition meeting. The opposition parties shall submit via the Department's web portal, substantive written comments and arguments regarding the nature of their opposition to the particular project. The opposition parties must provide one copy of the substantive opposition comments to the applicant at the opposition meeting. In order for an opposing party to have standing to appeal an adverse decision pursuant to O.C.G.A. § 31-6-44, such party must attend and participate in an opposition meeting. Substantive opposition comments must pertain to only one application and one applicant. In no case shall the Department accept substantive opposition comments that concerns multiple applicants or applications.

Applicants shall be given the opportunity to submit final amendments and/or letters of support for a particular application pursuant to and in compliance with Ga. Comp. R. & Regs. r. 111-2-2-.06(6) via the Department's web portal no later than the ninetieth (90th) day of the batching review cycle.

5. Applicants shall be given the opportunity to respond to the substantive opposition comments made orally and submitted in writing at the opposition meeting. The last day for the applicant(s) to respond to the opposition meeting comments, shall be the seventy-fifth (75th) day of the batching review cycle. The Department reserves the right, but is not required to, ask the applicant(s) for information in response to the substantive opposition comments. If the Department asks the applicant for information as a result of the comments provided at the opposition meeting, the applicant must submit the information requested no later than the seventy-fifth (75th) day of the batching review cycle.

6. No later than the one hundred and twentieth (120th) day of the batching review cycle, the Department shall provide written notification of its decision to issue or deny a Certificate of Need to the pertinent applicant(s).

(h) In evaluating batched applications, if any or all of the batched applications equally meet the statutory considerations, priority consideration will be given to a comparison of the applications with regard to:

1. The past and present records of the facility, and other existing facilities in Georgia, if any, owned by the same parent organization, regarding the provision of service to all segments of the population, particularly including Medicare, Medicaid, minority patients and those patients with limited or no ability to pay;

2. Specific services to be offered;

3. Appropriateness of the site, i.e., the accessibility to the population to be served, availability of utilities, transportation systems, adequacy of size, cost of acquisition, and cost to develop;

4. Demonstrated readiness to implement the project, including commitment of financing;

5. Patterns of past performance, if any, of the applicants in implementing previously approved projects in a timely fashion;

6. Past record, if any, of the applicant facility, and other existing facilities owned by the same parent organization, if any, in meeting licensure requirements and factors relevant to providing accessible, quality health care;

7. Evidence of attention to factors of cost containment, which do not diminish the quality of care or safety of the patient, but which demonstrate sincere efforts to avoid significant costs unrelated to patient care; and

8. Past compliance, if any, with survey and post-approval reporting requirements and indigent and charity care commitments.

(i) In the event of a favorable decision, the Department's notification letter shall serve as the Certificate of Need. The date of the decision shall be the date on the notification letter of the Department. The decision shall be to approve or deny the application(s) as submitted or as amended by the applicant(s) during the course of the batching review cycle, whichever is applicable. The effective date of the Certificate shall be the decision or approval date if not appealed. If administratively appealed in a timely fashion, the effective date of the Certificate shall be the date of final resolution of any administrative hearing. The Department may stay the effective date of a project appealed

through judicial process at the request of any party to such appeal or upon the Department's own initiative. Any determination by the Department to stay the effective date will be based upon sound health planning principles. If the Department stays the effective date of a project appealed through judicial process, the effective date shall be the date of final resolution of any judicial appeal.

(j) The decision letter shall contain at least the following:

1. A detailed statement of the findings related to each applicable consideration and standard relevant to the decision to issue or deny a Certificate of Need; and

2. Information pertaining to the availability of an appeal hearing.

(k) A copy of the notification letter shall be sent to the applicant(s), to the appropriate Regional Development Center and to the chief elected official of the applicable county and municipal government, if any. The Department's decision shall be subject to the provisions of the Open Records Act.

(l) Appeals of the Decision of the Department shall be in accordance with the Rules promulgated by the Certificate of Need Appeal Panel found in Ga. Comp. R. & Regs. Chapter 274.

(2) **Alternative Healthcare Models**

(a) **Applicability.**

1. For Certificate of Need purposes, Alternative Healthcare Models are defined as new and/or innovative models of providing new or existing institutional health services delivered in a proposed or existing healthcare facility.

2. For Certificate of Need purposes, the applicant for an Alternative Healthcare Model CON will be as follows:

(i) If the service(s) will be provided within a single healthcare facility, the owner of that facility will be the applicant;

(ii) If the service(s) will be provided within two or more healthcare facilities that are part of a healthcare services network, the owner(s) of the facility(ies) in which the service(s) will be provided will be the co-applicant(s).

3. The Department shall evaluate the performance of the Alternative Healthcare Model according to the scope as defined by the Department decision and the standards set forth in these Rules. If after a review the Department determines that the Alternative Healthcare Model does not meet the defined scope or expected standards, the Department may either immediately revoke the Certificate of Need or grant a specified time period during which the Alternative Healthcare Model must meet the defined scope and the expected standards or lose its Certificate of Need.

(b) **Definitions**

1. "Alternative healthcare model" means a new and/or innovative model of providing new or existing institutional health service(s) delivered in or through a healthcare facility(ies) and/or healthcare services networks.

2. "Authorized service" means a Department sanctioned Alternative Healthcare Model, which is either existing or approved. An existing service is an authorized service, which has become operational, and an approved service is an authorized service, which has not yet become operational.

3. "Board" means the Board of Community Health.

4. "Health care facility", as defined at O.C.G.A. § 31-6-2(17), means hospitals; destination cancer hospitals; other special care units, including but not limited to podiatric facilities; skilled nursing facilities; intermediate care facilities; personal care homes of at least twenty-five (25) beds; ambulatory surgical or obstetrical facilities; freestanding emergency departments or facilities not located on a hospital's primary campus; health maintenance

organizations; home health agencies; diagnostic, treatment, or rehabilitative centers, but only to the extent that O.C.G.A. § 31-6-40(a)(3) or (7) or both are applicable thereto.

5. "Healthcare services network" means a collaborative arrangement that consists of at least one healthcare facility plus one or more physician groups and/or one or more third party payers, or a collaborative arrangement that includes at least two or more healthcare facilities.

6. "Most recent year" means the most recent calendar year prior to submission of an application.

7. "Official inventory" means the inventory of all authorized Alternative Healthcare Models maintained by the Department based on CON approval and official Department records.

8. "Official state component plan" means the most recent document(s) that is/are most closely related to those services being provided by the Alternative Healthcare Model. The most recent document(s) will have been developed by the Department and approved by the Board.

9. "State health policies" means the most recent policies developed by the Board, which provide a framework for the service-specific policies included within each component of the State Health Plan. These state health policies include health promotion, financial accessibility, least restrictive care, regionalization, cost containment, health planning and citizen participation, healthcare personnel, and healthcare data and information networks.

(c) **Requests for Proposals**

1. Within the period of April 1 through May 31 of each year, the Board may accept abstracts describing potential Alternative Healthcare Models, based on the recommendation of the Department. The Board will review these abstracts, if any are solicited for that year, by August 31 of that year and select a list of those categories for which Alternative Healthcare Model Certificate of Need applications may be submitted.

2. Within thirty (30) days of the determination by the Board of the particular categories under which Alternative Healthcare Model Certificate of Need applications may be submitted, the Department shall provide notice of these categories to all interested parties. The notice shall contain:

(i) the listing of category(ies) related goals and desired outcomes and the probable scope of services;

(ii) the pertinent time frames and deadlines for submission of notices of intent to apply for Alternative Healthcare Model Certificate of Need;

(iii) the pertinent time frames and deadlines for submission of CON applications; and

(iv) the pertinent time frames and deadlines for the review of such applications, and any related criteria for review.

(d) **Intent to Apply**

1. All parties wanting to apply for Alternative Healthcare Model Certificates of Need under the selected categories must notify the Department of that party's intent to apply.

2. This notice must be:

(i) in writing, submitted via the Department's web portal, and must address specifically the particular category under which the applicant intends to apply;

(ii) received by the Department no later than the close of business on the sixtieth (60th) calendar day following the date that the Department publishes the notice of the selected categories. In the event that the sixtieth (60th) calendar day falls on either a weekend or a legal holiday, the sixtieth (60th) calendar day shall become automatically the next business day that is neither a weekend nor a legal holiday; and

(iii) in the event that the Department fails to receive the notice of intent to apply by the stated deadline, the interested party automatically shall be disqualified from applying during that particular review cycle.

(e) **Application Process**

1. Certificate of Need applications pertaining to the selected categories will be submitted via the Department's web portal on or before 3:00 p.m. June 1 of the year following the year in which the categories were selected by the Board. (Although applications may be submitted prior to 3:00 p.m. June 1, all application will be deemed received on June 1.) In the event that June 1 falls either on a weekend or a legal holiday, the day of submission shall become automatically the next business day that is neither a weekend nor a legal holiday;

2. Alternative Healthcare Model Certificate of Need applications must comply with the requirements in Ga. Comp. R. & Regs. r. 111-2-2-.06(2) and (3).

3. For the purposes of Alternative Healthcare Model Certificate of Need applications, an application will be deemed properly submitted if the following requirements are met:

(i) a summary of the Certificate of Need application is included to be used as information for the Board and general public;

(ii) a Certification Statement of Completeness is included designating under which category the application is being submitted; and

(iii) all items addressed in the Certification Statement of Completeness are provided with the application.

(f) **The Review Cycle**

1. The review cycle shall be automatically one hundred and twenty (120) days in duration. As a result, no party participating in the review process, including the Department, shall either request or be granted an extension of time past the one hundred and twentieth (120th) day;

2. The first day of the review cycle shall be the day upon which all properly submitted applications are deemed to be received as specified in Ga. Comp. R. & Regs. r. 111-2-2-.08(2)(e)3.

3. No later than the tenth (10th) day of the review cycle, the Department shall, if deemed necessary, submit a written request to any and all pertinent applicants for clarifying and/or supplemental information. This written request shall be effective the date it is sent electronically by the Department. The purpose of the request for clarifying and/or supplemental information shall be to obtain information from the applicant(s) that clarifies or supplements the initial information submitted with the original application.

4. No later than the twenty-fifth (25th) day of the review cycle, the applicant(s) shall, if deemed necessary by the Department, submit their clarifying and/or supplemental information. Failure to submit the required clarifying and/or supplemental information by the twenty-fifth (25th) day may be grounds for denial of the application.

5. If, by the twenty-fifth (25th) day, the review indicates potential for denial of the application(s), the Department, on or before the thirtieth (30th) day of the review cycle, shall provide the applicant(s) an opportunity to meet with the Department. The problems with the application(s) will be described and an opportunity offered to amend or withdraw the application or to submit additional information. Any and all additional information must be submitted on or before the forty-fifth (45th) day of the review cycle.

6. The last day for interested parties (including, but not limited to, competing applicant(s) and/or existing competing health care facilities) to submit letters of support or opposition addressing the underlying merits, or lack thereof, of any pending application(s) shall be the sixtieth (60th) day of the review cycle and must be submitted via the Department's web portal. Any letters of support and/or opposition that are received after the fifty-fifth (55th) day of the review cycle shall not be considered by the Department in its review of the pertinent application(s) and the letter(s) shall not become part of the master file compiled for the pertinent application(s).

7. The last day for applicant(s) to submit final amendments and responses to letters of opposition shall be the one hundred and eightieth (80th) day of the review cycle.

8. No later than the one hundred and twentieth (120th) day of the review cycle, the Department shall provide a written letter notifying the applicant of their decision to issue or deny a Certificate of Need to the pertinent applicant(s).

9. In the event of a favorable decision, this letter shall serve as the Certificate of Need. The date of the decision shall be the date on the notification letter from the Department. The decision shall be to approve or deny the application(s) as submitted or as amended by the applicant(s) during the course of the review cycle, whichever is applicable.

10. The decision letter shall contain at least the following:

(i) a detailed statement of the findings related to each applicable consideration and standard relevant to the decision to issue or deny a Certificate of Need; and

(ii) information pertaining to the availability of an appeal hearing.

11. A copy of the notification letter shall be sent to the applicant(s), to the appropriate Regional Development Center and to the chief elected official of the applicable county and municipal government, if any. The Department's decision shall be subject to the provisions of the Open Records Act.

12. Appeals of the decision of the Department shall be in accordance with the Rules promulgated by the Certificate of Need Appeal Panel.

(g) **Standards**

1. An Alternative Healthcare Model must be consistent with the State Health Policies adopted by the Board.

2. An Alternative Healthcare Model must clearly define its target population/community.

3. An Alternative Healthcare Model must:

(i) include a hypothesis(es) to be tested within a time-limited period not to exceed five (5) years;

(ii) demonstrate, as applicable, how it will support research, new service development, health professional education and training, and/or affiliation with an academic center of higher learning; and

(iii) demonstrate that the community supports the Alternative Healthcare Model.

4. An applicant for an Alternative Healthcare Model CON shall demonstrate the feasibility of operating the Alternative Healthcare Model in Georgia, based on a review of the experience in other states including the impact on health professionals of other healthcare programs or facilities and how the project is impacted by payers and regulatory entities.

5. An applicant for an Alternative Healthcare Model CON shall demonstrate the potential of the Alternative Healthcare Model to reduce healthcare costs to consumers, third party payors and the system as a whole.

6. An applicant for an Alternative Healthcare Model CON shall demonstrate the potential of the Alternative Healthcare Model to maintain or improve the standards of healthcare quality in some measurable fashion.

7. An applicant for an Alternative Healthcare Model CON shall demonstrate the potential of the Alternative Healthcare Model to provide increased choices or access for consumers to a continuum of services within the target community.

8. An applicant for an Alternative Healthcare Model CON shall demonstrate the potential of the Alternative Healthcare Model to meet existing or emerging health status and/or health system needs.

9. For any applicant that meets the requirements of this Rule the Department may waive all or part of otherwise applicable service-specific Ga. Comp. R. & Regs. r. 111-2-2-.20 et seq.

Cite as Ga. Comp. R. & Regs. R. 111-2-2-.08

AUTHORITY: O.C.G.A. §§ 31-2 et seq., 31-6 et seq.

HISTORY: Original Rule entitled "Alternative Application and Review Procedures" adopted. F. Dec. 16, 2004; eff. Jan. 5, 2005.

Amended: F. Sept. 11, 2008; eff. Oct. 1, 2008.

Amended: F. Mar. 11, 2022; eff. Mar. 31, 2022.

Note: Rule 111-2-2-.08, the incorrect version of the Rule was inadvertently filed (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) and appeared on the Rules and Regulations website April 28, 2022 through March 12, 2023. The correct version, as promulgated and adopted on March 10, 2022, was updated on the Rules and Regulations website March 13, 2023, the original filed and effective dates (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) were retained, as requested by the Agency. Effective March 10, 2023.

Amended: F. Dec. 24, 2024; eff. Jan. 13, 2025.

111-2-2-.09 General Review Considerations

(1) General Considerations. The burden of proof for producing information and evidence that an application is consistent with the applicable considerations and review policies, which follow, shall be on the applicant. In conducting review and making findings for Certificates of Need, the Department will consider whether:

(a) the proposed new institutional health services is reasonably consistent with the relevant general goals and objectives of the State Health Plan. The goals and objectives related to issues and addressed in the State Health Plan, which are relevant to the Certificate of Need proposal, will be considered in the review. It should be recognized that the goals of the State Health Plan express the ideal and, in some respects, may be incompatible with the concept of cost containment. The statutes and Rules represent the final authority for review decisions and the content of the Plan, or any component thereof shall not supersede the Rules in such determination;

(b) the population residing in the area served, or to be served, by the new institutional health service has a need for such services;

1. Population projections used by the Department will be resident population figures prepared or approved by the Office of Planning and Budget or other official figures that may be applicable as determined by the Department.

2. Updated resident population projections will be utilized upon the official effective date as stated by the Department, pursuant to these Rules, replacing and superseding the older data.

3. The projection period or horizon year for need determinations will be five years for hospital services and three years for all other services, unless otherwise provided by the Rules for the specified service. The projection period or horizon year will be advanced to the next projection year or horizon year on or about April 1 of each year.

4. Inpatient facilities will be inventoried on the basis of bed capacity approved, grandfathered, or authorized through the Certificate of Need process regardless of the number of beds in operation at any given time or which may be licensed by the Healthcare Facility Regulation Division.

5. Data sources to be utilized by the Department to evaluate need, population characteristics, referral patterns, seasonal variations, utilization patterns, financial feasibility, and future trends will include, but not be limited to, the following:

(i) any surveys required by the Department, including but not limited to those for hospitals, nursing facilities, home health agencies, specialized services, and ambulatory surgery facilities;

(ii) Cost reports submitted to fiscal intermediaries and the Department;

(iii) periodic special studies or surveys, as produced or formally adopted or used by the Department;

(iv) the United States Census and other studies conducted by the Census and other Federal and State agencies and bureaus, including but not limited to, the Department of Labor; and

(v) such other data sources utilized by the Department for measurement of community health status. Such data may include information submitted by the applicant pursuant to Ga. Comp. R. & Regs. 111-2-2-.06(2)(f), which may be necessary for the Department to ensure that the project is consistent with applicable general consideration provisions.

6. All data used by the Department in a Certificate of Need review will be available to the applicant on request, in accordance with Department policies on requested information. The most recent data reported and validated will be used in the analysis of a proposal.

(c) existing alternatives for providing services in the service area the same as the new institutional health service proposed are neither currently available, implemented, similarly utilized, nor capable of providing a less costly alternative, or no Certificate of Need to provide such alternative services has been issued by the Department and is currently valid

1. The Department supports the concept of regionalization of those services for which a service-specific Rule exists.

2. The Department shall consider economies of scale where need exists for additional services or facilities.

3. Utilization of existing facilities and services similar to a proposal to initiate services shall be evaluated to assure that unnecessary duplication of services is avoided. Where there exists significant unused capacity, initiating a similar service in another health care facility would require strong justification under other criteria.

(d) the project can be financed adequately and is in the immediate and long term, financially feasible;

(e) the effects of the new institutional health service on payors for health services, including governmental payors, are reasonable;

(f) the costs and methods of a proposed construction project, including the costs and methods of energy provision and conservation, are reasonable and adequate for quality health care. Construction plans will be reviewed in detail to assure that space is designed economically. Space shelled-in for some future use will not be accepted unless the applicant demonstrates that the shelled-in space will not be directly related to the provision of any clinical health service;

(g) the new institutional health service proposed is reasonably financially and physically accessible to the residents of the proposed service area and will not discriminate by virtue of race, age, sex, handicap, color, creed or ethnic affiliation;

1. In accordance with the provision found in O.C.G.A. § 31-6-42(7), the Department will evaluate the extent to which each applicant applying for a Certificate of Need participates in a reasonable share of the total community burden of care for those unable to pay. This provision shall not apply to applicants for life plan communities, skilled nursing facilities or units, and to projects that are reviewed by the Department on an emergency basis in accordance with Ga. Comp. R. & Regs. r. 111-2-2-.07(1)(k). In all other instances, the following indicators will be evaluated:

(i) administrative policies and directives related to acceptance of indigent, medically indigent, and Medicaid patients;

(ii) policies relating medical staff privileges, if applicable, to reasonable acceptance of emergency referrals of Medicaid and PeachCare patients and all other patients who are unable to pay all or a portion of the cost of care;

(iii) evidence of specific informational efforts targeted toward patients regarding arrangements for satisfying charges;

(iv) documented records of refunds, if any, received from the Federal, State, county, city, philanthropic agencies, donations, and any other source of funds other than from direct operations, such as indigent care trust fund distributions and disproportionate share payments, if applicable;

(v) the applicant's commitment to participate in the Medicare/Medicaid and PeachCare programs; to provide legitimate emergency care, if applicable, regardless of ability to pay; and to provide indigent and charity care; and

(vi) documented records of care provided to patients unable to pay, Medicare and Medicaid contractual adjustment, Hill-Burton payments (if applicable), other indigent care, and other itemized deductions from revenue including bad debt. Such records shall demonstrate that the levels of care provided correspond to a reasonable proportion of those persons who are medically or financially indigent and those who are eligible for Medicare or Medicaid within the service area.

2. The evaluation in 1. above is in addition to satisfaction of a minimum indigent and charity care commitment required by prior CON(s), if any.

(h) the proposed new institutional health service has a positive relationship to the existing health care delivery system in the service area;

(i) the proposed new institutional health service encourages more efficient utilization of the health care facility proposing such service;

(j) the proposed new institutional health service provides, or would provide a substantial portion of its services to individuals not residing in its defined service area or the adjacent service area;

(k) the proposed new institutional health service conducts biomedical or behavioral research projects or new service development that is designed to meet a national, regional, or statewide need;

(l) the proposed new institutional health service meets the clinical needs of health professional training programs;

(m) the proposed new institutional health service fosters improvements or innovations in the financing or delivery of health services; promotes health care quality assurance or cost effectiveness; or fosters competition that is shown to result in lower patient costs without a significant result in lower patient costs without a significant deterioration in the quality of care;

(n) the proposed new institutional health service fosters the special needs and circumstances of Health Maintenance Organizations;

(o) the proposed new institutional health service meets the Department's minimum quality standards, including, but not limited to, standards relating to accreditation, minimum volumes, quality improvements, assurance practices, and utilization review procedures;

(p) the proposed new institutional health service can obtain the necessary resources, including health care management personnel; and

(q) the proposed new institutional health service is an underrepresented health service, as determined annually by the Department. The Department shall, by rule, provide for an advantage to equally qualified applicants that agree to provide an underrepresented service in addition to the services for which the application was originally submitted.

(3) **General Cancer Hospital**

(a) On and after July 1, 2019, a destination cancer hospital may apply for a letter of determination in accordance with O.C.G.A. § 31-6-40(a)(8).

(b) Upon its receipt of a complete application for a destination cancer hospital to convert to a general cancer hospital, the Department shall issue such determination within 60 days.

(c) Upon the conversion of a destination cancer hospital to a general cancer hospital:

1. The general cancer hospital may continue to provide all institutional health care services and other services it provided as of the date of such conversion, including but not limited to inpatient beds, outpatient services, surgery, radiation therapy, imaging, and positron emission tomography (PET) scanning, without any further approval from the Department;

2. The destination cancer hospital shall be classified as a general cancer hospital under this chapter and shall be subject to all requirements and conditions applicable to hospitals under this article, including but not limited to, indigent and charity care and inventories and methodologies to determine need for additional providers or services; and

3. The hospital's inpatient beds, operating rooms, radiation therapy equipment, and imaging equipment existing on the date of conversion shall not be counted in the inventory by the Department for purposes of determining need for additional providers or services, except that any inpatient beds, operating rooms, radiation therapy equipment, and imaging equipment added after the date of conversion shall be counted in accordance with the Department's rules and regulations.

(d) In the event that a destination cancer hospital does not convert to a general cancer hospital, it shall remain subject to all requirements and conditions applicable to destination cancer hospitals under this article.

(4) In the case of applications for basic perinatal services in counties where:

(a) Only one civilian health care facility or health system is currently providing basic perinatal services; and

(b) There are not at least three (3) different health care facilities in a contiguous county providing basic perinatal services, the Department shall not apply the consideration contained in paragraph (b) of section (1) of this Rule.

(5) **Osteopathic Considerations.** When an application is made for a Certificate of Need to develop or offer a new institutional health service or health care facility for osteopathic medicine, the need for such facility shall be determined on the basis of the need and availability in the community for osteopathic services and facilities. Nothing in this chapter shall, however, be construed as recognizing any distinction between allopathic and osteopathic medicine.

(6) **Minority-Administered Hospital Considerations.** If the denial of an application for a Certificate of Need for a new institutional health service proposed to be offered or developed by a minority-administered hospital serving a socially and economically disadvantaged minority population in an urban setting, or by a minority-administered hospital utilized for the training of minority medical practitioners, would adversely impact upon the facility and population served by said facility, the special needs of such hospital facility and the population to be served by said facility for the new institutional health service shall be given extraordinary consideration by the Department in making its determination of need. The term "minority-administered" means a hospital controlled or operated by a governing body or administrative staff composed predominantly of members of a minority race. The Department shall have the authority to vary or modify strict adherence to the provisions of Code Chapter 31-6-42(c) and this

Chapter in considering the special needs of said facility and its population served and to avoid an adverse impact on the facility and the population served thereby.

(7) **Considerations for Joined Applications.**

(a) In evaluating joined applications, if the services proposed are found to be needed, and if any or all applications equally meet the statutory considerations, priority consideration will be given to a comparison of the applications with regard to:

1. the past and present records of the facility, and other existing facilities in Georgia, if any, owned by the same parent organization, regarding the provision of service to all segments of the population, particularly including Medicare, Medicaid, minority patients and those patients with limited or no ability to pay;

2. specific services to be offered;

3. appropriateness of the site, i.e., the accessibility to the population to be served, availability of utilities, transportation systems, adequacy of size, cost of acquisition, and cost to develop;

4. demonstrated readiness to implement the project, including commitment of financing;

5. patterns of past performance, if any, of the applicants in implementing previously approved projects in timely fashion;

6. past record, if any, of the applicant facility, and other existing facilities owned by the same parent organization, if any, in meeting licensure requirements and factors relevant to providing accessible, quality health care;

7. evidence of attention to factors of cost containment, which do not diminish the quality of care or safety of the patient, but which demonstrate sincere efforts to avoid significant costs unrelated to patient care;

8. past compliance, if any, with survey and post-approval reporting requirements and indigent and charity care commitments;

9. hospital and physician collaborations that promote greater cost efficiency to patients, ensure greater quality assurance outcomes and foster positive relationships within the existing healthcare delivery network which benefits both providers and members within the impacted service area population; and

10. proposed services that include or involve a clinical healthcare service that is or has been underrepresented in the proposed service area for more than twelve (12) months as evidenced by geographical barriers to the service, insufficient staffing to provide the service and/or recent termination of the service in the proposed planning area.

Cite as Ga. Comp. R. & Regs. R. 111-2-2-.09

AUTHORITY: O.C.G.A. §§31-2 et seq., 31-6 et seq.

HISTORY: Original Rule entitled "General Review Considerations" adopted. F. Dec. 16, 2004; eff. Jan. 5, 2005.

Amended: F. Nov. 13, 2007; eff. Dec. 3, 2007.

Amended: F. Sept. 11, 2008; eff. Oct. 1, 2008.

Amended: F. Mar. 11, 2022; eff. Mar. 31, 2022.

Note: Rule 111-2-2-.09, the incorrect version of the Rule was inadvertently filed (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) and appeared on the Rules and Regulations website April 28, 2022 through March 12, 2023. The correct version, as promulgated and adopted on March 10, 2022, was updated on the Rules and Regulations website March

13, 2023, the original filed and effective dates (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) were retained, as requested by the Agency. Effective March 10, 2023.

Amended: F. Dec. 24, 2024; eff. Jan. 13, 2025.

111-2-2-.10 Determinations

(1) General Provisions Relating to Determinations

(a) Determinations are conclusions of the Department that are based on specific facts and are limited to the specific issues addressed in the request for determination, as applicable. Therefore, the conclusions of a specific determination shall have no binding precedent in relation to parties not subject to the request and to other facts or factual situations that are not presented in the request.

(b) This Rule shall not be construed as providing an administrative remedy for decisions made by the Department pursuant to O.C.G.A. § 31-6-43, which involve the approval or denial of applications for certificates of need.

(c) A person requesting a determination shall make such a request in writing and shall specify in detail all relevant facts, which relate to the proposed action or course of conduct. The request shall be submitted via the Department's web portal. The Department shall respond to the request in writing. The request shall include, at a minimum, the following components:

1. a statement citing by appropriate reference the statutory provision or other authority under which the request is to be granted by the Department.

2. the exact legal name of each person whose rights are affected and who is requesting a determination and the address or principal place of business of each such person. A request may be submitted by an attorney or other party on behalf of such person, but the request must include the information required by this subsection relating to the person whose rights are affected;

3. The name, title, address, telephone number, facsimile telephone number and electronic mail address of the attorney or other person, if any, to whom correspondence or communications in regard to the request shall be addressed; and

4. An explanation of any unusual circumstances involved in the request which the Department will be expected to direct its particular attention, including the existence of emergency conditions.

(d) Requests for determination shall address only one matter per request.

(e) Requests for determination shall be submitted pursuant to and in compliance with Ga. Comp. R. & Regs. r. 111-2-2-.06(6). Such requests shall also include one signed original of the written vendor lobbyist certification required by Ga. Comp. R. & Regs. r. 111-1-2-.03(2).

(f) Requests for determination shall include payment of a request fee. Payment of the fee shall be by credit/debit card via the Department's website, certified check, or money order made payable to the State of Georgia Department of Community Health and must be received by the Department before a determination request will be reviewed. Failure to provide payment of the appropriate fee will result in non-acceptance of the request.

1. The request fee for determination shall be $500.00;

2. State-owned institutions shall be exempt from payment of these fees; and

3. The Department may waive payment of these fees for certain hospital authority facilities and for certain public non-profit providers when the Department determines that financial circumstances exist, which would justify such action. Such requests for waiver must be received at the time of the initial request.

(2) **Letters of Determination.** Pursuant to O.C.G.A. § 31-6-47, if a person believes or has reason to believe that the application of a Department Rule or statutory provision may directly affect or impair the legal rights of that person as to some proposed action or course of conduct being considered by that person, including, but not limited to, determinations regarding reviewability, grandfathering decisions, and relocation or replacement determinations, such person may request a written determination from the Department regarding the application of such Department Rule or statutory provision upon that person's proposed action or course of conduct. A determination request is distinguished from a general question as a determination does not address general issues relating to policy and procedure.

Any person proposing an activity that would make it a health care facility unless exempted from prior CON review and approval pursuant to O.C.G.A. § 31-6-47, or any other part of the CON statute at O.C.G.A. § 31-6 et seq. shall be required to, pursuant to O.C.G.A. § 31-6-47.1, submit a request for a letter of determination from the Department. The Department's written response which confirms that the proposed activity is exempt from review shall act as the official confirmation of exemption provided in this Code section. A party is not authorized to commence or undertake the activity in question which it believes to fall within any one or more of the statutory exemptions in O.C.G.A. § 31-6-47 until written approval is issued by the Department in response to a request for a letter of determination as provided in this Rule.

The Department requires prior notice and approval of any activity which is believed to be exempt pursuant to paragraphs (10), (10.1), (15), (17), (18), (19), (20), (21), (26), (27), (28), (29), (30), (31), (31.1), (32), (33), and (34) of subsection (a) of Code Section 31-6-47 and Ga. Comp. R. & Regs. r. 111-2-2-.03 (14), (15), (16), (17), (18), (20), (21), (22), (23), (24), (29), (30), (31), (32), (33), (33.1), (34), (35), and (36).

The Department requires prior notice and approval of any activity which is believed to be exempt pursuant to paragraph (25) of subsection (a) of Code Section 31-6-47 and Ga. Comp. R. & Regs. r. 111-2-2-.03 (28), which establish a new health care facility.

In reviewing a determination request pursuant to this Rule to relocate all or a portion of an existing skilled nursing facility, intermediate care facility, or intermingled nursing facility, pursuant to O.C.G.A. § 31-6-47(a)(24) and Ga. Comp. R. & Regs. r. 111-2-2-.03(27), the Department may allow such facility to divide into two or more such facilities if the Department determines that the proposed division is financially feasible and would be consistent with quality patient care. Under no circumstances will the Department allow, via a favorable determination, a facility as listed above to relocate as one facility, or divide into more than one facility, with more than the total number of beds authorized in the facility's location prior to any relocation and/or division.

(a) No person shall be entitled to request a determination that relates to an actual or proposed action or course of conduct which has been taken or which would be taken by a third party; and

(b) In addition to the requirements of Ga. Comp. R. & Regs. r. 111-2-2-.10(1), a determination request shall include a concise and explicit iteration of the facts on which the Department is expected to rely in granting the determination.

(c) The Department shall establish timeframes, forms, and criteria to request a letter of determination that an activity is properly exempt or excluded under this chapter prior to its implementation.

1. If no objection to a request for determination is filed within 30 days of the Department's receipt of such request for Determination, the Department shall have 60 days from the date of the Department's receipt of such request to review the request and issue a letter of determination.

2. Where conditions exist which make it impractical to complete a review in 60 days, the Department may, on notification to the requester, extend the time limit another 30 days to 90 days.

(d) The Department shall publish notice of all requests for letters of determination regarding exempt activity and opposition to such request.

(e) **Reserved.**

(3) **Requests for Letters of Determination for Below Threshold Diagnostic, Therapeutic, or Other Imaging Equipment.** A party requesting a letter of determination for the acquisition of diagnostic, therapeutic, or other imaging equipment must submit with the request a sworn affidavit from a person capable of making a binding commitment on behalf of the party containing the following affirmations:

(a) that the affiant is:

1. a hospital; or

2. an individual private physician or single group practice of physicians and is

(i) acquiring the equipment exclusively for use on patients of such private physician or single group practice of physicians; and

(ii) such private physician or member of such single group practice of physicians is physically present at the practice location where the diagnostic or other imaging equipment is located at least seventy-five percent (75%) of the time that the equipment is in use.

3. that the affiant is capable of making a binding commitment on behalf of the party;

4. **Reserved**.

5. **Reserved**.

6. **Reserved.**

7. **Reserved**.

8. **Reserved**.

9. **Reserved**.

(b). **Reserved**.

1. **Reserved**.

2. **Reserved**.

3. **Reserved**.

4. **Reserved**.

5. **Reserved**.

6. **Reserved**.

7. **Reserved**.

8. **Reserved**.

9. **Reserved**.

10. **Reserved**.

11. **Reserved**.

12. **Reserved**.

(c) **Reserved**.

(d) **Reserved**.

(e) **Reserved**.

(f) A letter of determination for the acquisition of diagnostic, therapeutic, or other imaging equipment shall be valid only for the defined equipment, physical location, cost, and entity or person named in the request as the acquirer and operator of the equipment and only to the pertinent facts that were disclosed in the request. Such letters are non-transferable and may not be acquired. If the facts pertinent to the letter of determination change in any way, the letter is no longer valid;

(g) If the equipment and associated activities are not completed within one hundred and eighty (180) days of the issuance of the determination, the party requesting a determination shall submit an interim statement within two weeks of the end of that one hundred and eighty (180) day period and within two weeks of the end of each succeeding ninety (90) day period until the final statement is submitted upon completion of the facility. Each of the interim statements shall disclose any good faith estimates of the percentage of completion. The accuracy and completeness of the interim and final statements shall be verified by sworn affidavits from an authorized owner or officer of the party requesting a determination. Failure to comply with the provisions of this subsection may result in the rescission of the determination issued.

(4) **Requests for Letters of Determination for Exempt Single Specialty or Joint Venture Ambulatory Surgical Centers.**

(a) When the Department receives a request for a letter of determination for the establishment of a physician-owned, single specialty, office-based ambulatory surgery facility, or a joint venture ambulatory surgical center, pursuant to O.C.G.A. § 31-6-2(33), (23), and O.C.G.A. § 31-6-47(a)(18), (19), the party requesting such a letter must comply with the following:

1. Identify the name and address of the proposed ambulatory surgery facility, including the principal business address of the sole physician or group practice that will own the facility.

2. Identify the individual private physician, or all owners (e.g., stockholders, partners, members) of the single group practice of private physicians who are also on the same single specialty, that will own, operate, and utilize the proposed facility. All members of the single group practice must be of the same specified surgical specialty. Physicians who perform procedures within the single specialty ambulatory surgical center must own at least eighty-five percent (85%) of the group practice and the surgery center. The Department will issue a determination, if all other criteria are met, to a single group practice which utilized the services of employee physicians of the same specialty in the surgery center if these employee physicians are not a member or employee of any other medical practice. All employee physicians must be identified, and an affirmative statement with regard to their practice affiliation must be included. Such ambulatory surgical center shall only be utilized by physicians who are of the same single specialty, who may include physicians who are not owners or employees of the individual private physician or single group practice of private physicians that own and operate the center. The Department will allow no more than fifteen percent (15%) non-physician ownership in the physician(s) practice requesting a determination, and/or the surgery center in a single specialty ambulatory surgical center. Evidence of non-physician ownership, including the percentage of such ownership, must be provided with the determination request. For a joint venture ambulatory surgical center, the ownership interest of the hospital shall be no less than thirty percent (30%) and the collective ownership of the physicians or group of physicians shall be no less than thirty percent (30%). Any evidence of non-hospital or non-physician or group of physician's ownership in a joint venture ambulatory surgical center must be provided with the determination request.

3. All physicians who utilize the surgery center must be licensed to practice in the state of Georgia, and must submit a copy of such license; should any physician members of a single group practice perform procedures in the

ambulatory surgery facility created by the issuance of a determination lose their license to practice medicine in Georgia, the determination shall be revoked, unless within sixty (60) days of such physician losing their license, the group practice submits new evidence documenting that the physician ownership of the facility by the group practice does not include the physician who lost their license.

4. Submit evidence of the sole physician professional corporation or the entity comprising the single group practice of private physicians, to include authorizing and governing documents such as articles of incorporation, by-laws, operating agreements, partnership agreements, etc. Submit a sworn affidavit, signed by the owners, which lists all owners of the sole or group practice and the proposed surgery facility.

5. The physician(s) must show evidence of ownership by warranty deed or lease of the space housing the ambulatory surgery facility including the clinical office space.

6. Provide a detailed description of the proximity of the physician's or the group practice's clinical offices to the ambulatory surgery facility. The Department will only grant a determination to those proposed ambulatory surgical facilities, which are deemed to be in reasonable proximity to the clinical offices of the sole physician or single group practice that will own the proposed facility. Reasonable proximity will be determined on a case-by-case basis. Example of reasonable proximity include those ambulatory surgical facilities on the same floor and physically attached to the clinical offices; surgical suites on a different floor of the same building as the clinical offices with one public entrance to the proposed facility.

7. State the number of operating rooms in the proposed ambulatory surgery facility.

8. State the total square footage in the proposed ambulatory surgery facility. This total includes the square footage associated with all operating suites, reception and waiting areas, business offices, pre and post-operation areas, all building common areas including a pro rata share of the common areas of buildings utilized by multiple tenants, which are new and/or renovated and involve expenditures to be incurred in the development, construction and establishment of the proposed surgery facility.

9. List costs attributable to new construction or renovation of the total area comprising the ambulatory surgery facility. Documentation of the total costs of constructing, developing, and establishing the proposed ambulatory surgical facility, and the costs of all items associated with or simultaneously developed with the project, including, but not limited to, fixed equipment not included in the construction contract, moveable equipment, architectural and engineering fees, legal and administrative fees, interim financing (interest during construction), and underwriting costs. The documentation of construction and renovation costs must be in the form of a letter from a licensed Georgia architect verifying the estimated construction costs of the proposed ambulatory surgery facility. With regard to the construction of a new building (or a new wing including space devoted to services other than the surgery center) to house an ambulatory surgery facility, a pro-rata portion of the building shell costs, including all building common areas, must be allocated to the costs of the proposed ambulatory surgery facility. Other costs to be included are:

(i) The cost of new space (even if the space will be leased) based on the construction cost of the new space. Appropriate documentation from an architect licensed in Georgia must be submitted. A copy of all leases must be submitted;

(ii) The cost of all equipment (medical and non-medical) purchases for the ambulatory surgery facility.

(iii) The present value of any equipment to be leased for the surgery facility.

(iv) The Department must have a line item breakdown of all amounts attributable to new construction, renovation, furnishings, leases, and items of equipment in accordance with the provisions outlined above, including new expenditures for furnishings for non-patient care areas such as waiting areas, reception areas, and business offices.

The Department will require a sworn affidavit that no party associated with the practice, no party who will utilize the surgery center, and none of the physicians requesting a determination, by virtue of ownership or employment, has incurred any expenditure for equipment of any kind to be utilized in the surgery center that has been

subsequently donated to the practice for use in the surgery center and the cost of that equipment, whether purchased or leased, was not included in the dollar threshold applicable to the surgery center.

10. A schematic floor plan must be provided to the Department. This documentation must be clear and readable. The floor plan must clearly show all areas of the proposed ambulatory surgery facility.

11. Pursuant to O.C.G.A. § 31-6-2(14), list the cost of all other items, regardless whether they are independently subject to Certificate of Need review, that are associated and to be simultaneously developed with the proposed ambulatory surgery facility, except for the expenditure or commitment of funds to develop studies, reports, schematics, preliminary plans and specifications or working drawings, or to acquire sites.

12. The Department will not issue a determination to any sole physician or single specialty group practice of physicians proposing to bill a professional fee through a larger multi-specialty group practice in which the single specialty group practice requesting the determination remains a part of. For purposes of these Rules, this provision does not preclude the issuance of a determination to a physician(s), which utilizes a larger group practice for the sole purpose of billing services under the provider number of the sole physician or single group practice. Nothing in this section shall prohibit an individual private physician or a single group practice of private physicians from entering into an arrangement with an outside entity for practice management, administrative services, or both.

13. The Department will not issue a determination to any physician(s) who is a member of more than one single group practice, pursuant to O.C.G.A. § 43-1B-3(5) of the Georgia Patient Self-Referral Law.

14. The Department will not issue a determination to any group practice of physicians if any members of that group practice are also members of a multi-specialty clinical practice. For purposes of these Rules a multi-specialty clinical group practice does not mean any volume purchasing association or managed care network whose function is managed care contracting in which the physician or group practice participates.

15. The Department will not issue a determination to any party proposing to share operating rooms or common space in a proposed ambulatory surgical facility between more than one surgical group practice of different specialties, or between more than one sole physician of different specialties.

16. Provide a sworn affidavit, signed by the physician(s) owners, that the party requesting a determination will not incur any additional capital expenditures involving new construction or renovation of physical space or the addition or replacement of equipment within three (3) years after the issuance of the determination, which, when coupled with prior expenditures, would exceed the threshold amount applicable to the statutory exemption for this type of facility unless it first secures a Certificate of Need. A party holding a determination issued by the Department may request, in writing, a waiver from this provision for expenditures for equipment involving newly recognized and innovative medical technologies (FDA approved) present in the marketplace. Any such expenditure will be applied to the original threshold amount unless the written consent of the Department is obtained prior to the expenditure.

17. Upon completion of construction of the ambulatory surgery facility, the party requesting a determination shall submit a final statement of the total costs of the facility, including a separate line item completed project cost sheet with the same detail and documentation as required in subsection (4)(a)11. above. In addition, if the proposed ambulatory surgery facility is not completed within one hundred and eighty (180) days of the issuance of a determination, the party requesting a determination shall submit an interim statement within two weeks of the end of that one hundred and eighty (180) day period and within two weeks of the end of each succeeding ninety (90) day period until the final statement is submitted upon completion of the facility. Each of the interim statements shall disclose the cost of the facility incurred to date, and any good faith estimates of the percentage of completion of the facility and the amount of costs expected to be incurred to complete the facility. The accuracy and completeness of the interim and final statements shall be verified by sworn affidavits from an authorized owner or officer of the party requesting a determination and from the general contractor. Failure to comply with the provisions of this subsection may result in the rescission of the determination issued.

18. The determination is not transferable to a purchaser of the sole physician or single group practice, which originally received a determination. This provision is not intended to limit the transferability of a sole physician practice or a group practice but is intended to put the new physician owners on notice that they must request a new

determination as new owners of that practice. Such a new request will be evaluated based on the determination criteria applicable at the time of the new request, and the acquisition costs of the practice will not be a part of the applicable capital expenditure threshold.

(b) A single specialty ambulatory surgical center that requests a letter of determination shall provide documentation, in addition to the requirements outlined in section (a) of this Rule above, to show that it:

1. Has capital expenditures associated with the construction, development, or other establishment of the clinical health service which do not exceed $2,500,000.00; or

2. Is the only single specialty ambulatory surgical center in the county owned by the group practice and has two or fewer operating rooms; provided, however, that a center exempt pursuant to this provision shall be required to obtain a Certificate of Need in order to add any additional operating rooms;

3. Has a hospital affiliation agreement with a hospital within a reasonable distance from the facility or the medical staff at the center has admitting privileges or other acceptable documented arrangements with such hospital to ensure the necessary backup for the center for medical complications. The center shall have the capability to transfer a patient immediately to a hospital within a reasonable distance from the facility with adequate emergency room services. A party requesting a letter of determination must provide documentation to support an assertion that a hospital, pursuant to this requirement, has unreasonable denied a transfer agreement or affiliation agreement to the center;

4. Provides care to Medicaid beneficiaries and, if the facility provides medical care and treatment to children, to PeachCare for Kids® beneficiaries and provides uncompensated indigent and charity care in an amount equal to or greater than two percent (2%) of its adjusted gross revenue and or after January 1, 2026, in an amount equal to or greater than the minimum amount established by the Department which shall be reviewed by the Department every 12 months; or

5. If the center is not a participant in Medicaid or the PeachCare for Kids Program, provides uncompensated care to Medicaid beneficiaries and, if the facility provides medical care and treatment to children, to PeachCare for Kids® beneficiaries, uncompensated indigent and charity care, or both in an amount equal to or greater than four percent (4%) of its adjusted gross revenue and on after January 1, 2026, in an amount equal to or greater than the minimum amount established by the Department which shall be reviewed by the Department every 12 months; provided, however, single specialty ambulatory surgical centers owned by physicians in the practice of ophthalmology shall not be required to comply with this subparagraph; and

6. Provides annual reports in the same manner and in accordance with O.C.G.A. § 31-6-70 and Ga. Comp. R. & Regs. r. 111-2-2-.04.

Noncompliance with any condition of subsections 4. and 5. of Section (4)(b) of this Rule shall result in a monetary penalty in the amount of the difference between the services which the center is required to provide and the amount actually provided and may be subject to revocation of its exemption status by the Department for repeated failure to pay any fines or moneys due to the Department or for repeated failure to produce data as required by O.C.G.A. § 31-6-70, and subsection 6. of section (4)(b) of this Rule, after notice to the exemption holder and a fair hearing pursuant to Chapter 13 of Title 50, the Georgia Administrative Procedure Act. The dollar amount specified in this paragraph shall be adjusted annually by an amount calculated by multiplying such dollar amount (as adjusted for the preceding year) by the annual percentage of change in the composite index of construction material prices, or its successor or appropriate replacement index, if any, published by the United States Department of Commerce for the preceding calendar year, commencing on July 1, 2009, and on each anniversary thereafter of publication of the index.

(c) Any joint venture ambulatory surgical center that requests a letter of determination shall provide documentation, in addition to the requirements outlined in section (1) of this Rule above, to show that it:

1. Has capital expenditures associated with the construction, development, or other establishment of the clinical health service which do not exceed $5,000,000.00;

2. Provides care to Medicaid beneficiaries and, if the facility provides medical care and treatment to children, to PeachCare for Kids® beneficiaries and provides uncompensated indigent and charity care in an amount equal to or greater than two percent (2%) of its adjusted gross revenue and on and after January 1, 2026, in an amount equal to or greater than the minimum amount established by the Department which shall be reviewed by the Department every 12 months; or

3. If the center is not a participant in Medicaid or the PeachCare for Kids® Program, provides uncompensated care to Medicaid beneficiaries and, if the facility provides medical care and treatment to children, to PeachCare for Kids® beneficiaries, uncompensated indigent and charity care, or both in an amount equal to or greater than four percent (4%) of its adjusted gross revenue and on and after January 1, 2026, in an amount equal to or greater than the minimum amount established by the Department which shall be reviewed by the Department every 12 months; and

4. Provides annual reports in the same manner and in accordance with O.C.G.A. § 31-6-70 and Ga. Comp. R. & Regs. r. 111-2-2-.04.

Noncompliance with any condition of subsections 2. and 3. of section (4)(c) of this Rule shall result in a monetary penalty in the amount of the difference between the services which the center is required to provide and the amount actually provided and may be subject to revocation of its exemption status by the Department for repeated failure to pay any fines or moneys due to the Department or for repeated failure to produce data as required by O.C.G.A. § 31-6-70, and subsection 4. of section (4)(c) of this Rule, after notice to the exemption holder and a fair hearing pursuant to Chapter 13 of Title 50, the Georgia Administrative Procedure Act. The dollar amount specified in this paragraph shall be adjusted annually by an amount calculated by multiplying such dollar amount (as adjusted for the preceding year) by the annual percentage of change in the composite index of construction material prices, or its successor or appropriate replacement index, if any, published by the United States Department of Commerce for the preceding calendar year, commencing on July 1, 2009, and on each anniversary thereafter of publication of the index.

(5) **Requirements Applicable to Valid Holders of Ambulatory Surgery or Diagnostic or Therapeutic Equipment Exemptions Prior to July 1, 2008.**

(a) Any facility offering ambulatory surgery pursuant to the exclusion designated on June 30, 2008, as division (14)(G)(iii) of O.C.G.A. § 31-6-2; any diagnostic, treatment, or rehabilitation center offering diagnostic imaging or other imaging services in operation and exempt prior to July 1, 2008; or any facility operating pursuant to a letter of nonreviewability and offering diagnostic imaging services prior to July 1, 2008, shall:

1. Provide annual reports in the same manner and in accordance with O.C.G.A. § 31-6-70 and in accordance with the provisions of Ga. Comp. R. & Regs. r. 111-2-2-.04(1)(b)2.

(b) If, on or after July 1, 2008, any facility referenced in subsection (5)(a) above that, makes a capital expenditure associated with the construction, development, expansion, or other establishment of a clinical health service or the acquisition or replacement of diagnostic or therapeutic equipment with a value in excess of $800,000.00 over a two-year period; builds a new operating room; or chooses to relocate in accordance with Ga. Comp. R. & Regs. r. 111-2-2-.03, it shall:

1. Provide care to Medicaid beneficiaries and, if the facility provides medical care and treatment to children, to PeachCare for Kids® beneficiaries and provide uncompensated indigent and charity care in an amount equal to or greater than two percent (2%) of its adjusted gross revenue, and on and after January 1, 2026, in an amount equal to or greater than the minimum amount established by the Department which shall be reviewed by the Department every 12 months; or

2. If the facility is not a participant in Medicaid or the PeachCare for Kids® Program, provide uncompensated care for Medicaid beneficiaries and, if the facility provides medical care and treatment to children, for PeachCare for Kids® beneficiaries, uncompensated indigent and charity care, or both in an amount equal to or greater than four percent (4%) of its adjusted gross revenue and on and after January 1, 2026, in an amount equal to or greater than the minimum amount established by the Department which shall be reviewed by the Department every 12 months.

Noncompliance with any condition of subsection (b)1. and 2. above shall result in a monetary penalty in the amount of the difference between the services which the center is required to provide and the amount actually provided and may be subject to revocation of its exemption status by the Department for repeated failure to pay any fees or monies due to the Department or for repeated failure to produce data as required by O.C.G.A. § 31-6-70 after notice to the exemption holder and a fair hearing pursuant to Chapter 13 of Title 50, the Georgia Administrative Procedure Act. The dollar amount specified in this paragraph shall be adjusted annually by an amount calculated by multiplying such dollar amount (as adjusted for the preceding year) by the annual percentage of change in the consumer price index, or its successor or appropriate replacement index, if any, published by the United States Department of Labor for the preceding calendar year, commencing on July 1, 2009. In calculating the dollar amounts of a proposed project for the purposes of this paragraph, the costs of all items subject to review by this chapter and items not subject to review by this chapter associated with and simultaneously developed or proposed with the project shall be counted, except for the expenditure or commitment of or incurring an obligation for the expenditure of funds to develop Certificate of Need applications, studies, reports, schematics, preliminary plans and specifications or working drawings, or to acquire sites. Subsections (b)1. and 2. of section (5) of this Rule, shall not apply to facilities offering ophthalmic ambulatory surgery pursuant to the exclusion designated on June 30, 2008, as division (14)(G)(iii) of O.C.G.A. § 31-6-2 that are owned by physicians in the practice of ophthalmology.

(6) **Administrative Remedies for Adverse Determinations.**

When the Department makes a determination or decision pursuant to Ga. Comp. R. & Regs. r. 111-2-2-.10(1) through (5) of this Rule or any other determination or decision over which the Certificate of Need Appeal Panel lacks subject matter jurisdiction, the person who requests and receives the determination or decision may appeal to the Commissioner or his designee for an administrative hearing pursuant to the Administrative Procedures Act if such person is aggrieved by the Department's determination or decision. Such request for a hearing must be made in writing and must be received by the Department within thirty (30) days of the date of the Department's determination or decision. If such written request is not received by the Department within thirty (30) days, the Department's determination or decision shall become final upon the thirty-first (31st) day.

The Department shall publish notice of all requests for letters of determination regarding exempt activity and opposition to such request, whether pursuant to O.C.G.A. § 31-6-47 or any other provision of Code Section 31-6 and these Rules. Persons opposing a request for approval of an exempt activity, whether pursuant to an express statutory exemption or any other provision of the health planning statute or these Rules, shall be entitled to file a written objection with the Department and the Department shall consider any filed objection when determining whether an activity is exempt. A person who wishes to file a written objection to an exemption determination request, including requests for letters of determination for a single specialty ambulatory surgical center or a joint venture ambulatory surgical center, must do so no later than thirty (30) days after the date of Department receipt of the initial request for the exemption determination. Such written opposition should be submitted via the Department's web portal. The opposition shall be submitted in accordance with Ga. Comp. R. & Regs. r. 111-2-2-.06(6).

If no objection to a request for determination is filed within 30 days of the Department's receipt of such request for Determination, the Department shall have 60 days from the date of the Department's receipt of such request to review the request and issue a letter of determination. The Department may adopt rules for deciding when it is not practicable to provide a determination in 60 days and may extend the review period upon written notice to the requestor but only for an extended period of no longer than an additional 30 days.

After the issuance of an approval to a response to the request for an exemption determination, including requests for letters of determination for a single specialty ambulatory surgical center or a joint venture ambulatory surgical center, a person in opposition that has complied with the provisions outlined above, shall have the right to a fair hearing pursuant to Chapter 13 of Title 50, the Georgia Administrative Procedure Act, and judicial review of a final decision in the same manner and under the same provisions as in O.C.G.A. § 31-6-44.1. A person who requested and received the exemption determination shall have automatic standing to participate in any such administrative proceeding to defend the approved exemption determination. The Department may also participate to defend its decision. A person who opposes an exemption determination request that is denied, and who has complied with the written opposition submission requirements provided above, shall have standing to participate in any administrative proceeding requested by the person denied an approved exemption determination. If the written opposition is not submitted in accordance with the provisions outlined above, the Department shall not consider the opposition, and

the rights to an administrative hearing, and/or any participation in any proceeding as outlined above, will not adhere to the opposing person.

Cite as Ga. Comp. R. & Regs. R. 111-2-2-.10

AUTHORITY: O.C.G.A. §§ 31-2 *et seq*., 31-6 *et seq*.

HISTORY: Original Rule entitled "Determinations and Letters of Non-Reviewability" adopted. F. Dec. 16, 2004; eff. Jan. 5, 2005.

Amended: F. Aug. 28, 2006; eff. Sept. 17, 2006.

Amended: F. Sept. 11, 2008; eff. Oct. 1, 2008.

Amended: F. Nov. 14, 2008; eff. Dec. 4, 2008.

Amended: New title, "Determinations." F. Mar. 11, 2022; eff. Mar. 31, 2022.

Note: Rule 111-2-2-.10, the incorrect version of the Rule was inadvertently filed (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) and appeared on the Rules and Regulations website April 28, 2022 through March 12, 2023. The correct version, as promulgated and adopted on March 10, 2022, was updated on the Rules and Regulations website March 13, 2023, the original filed and effective dates (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) were retained, as requested by the Agency. Effective March 10, 2023.

Amended: F. Dec. 24, 2024; eff. Jan. 13, 2025.

111-2-2-.11 Service-Specific Review Considerations Generally

(1) The Department has adopted the following service-specific requirements and review considerations:

(a) **Acute Care and Acute Care-Related Rules**:

1. Short-Stay General Hospital Services, Ga. Comp. R. & Regs. r. 111-2-2-.20;

2. Adult Cardiac Catheterization Services, Ga. Comp. R. & Regs. r. 111-2-2-.21;

3. Open Heart Surgical Services, Ga. Comp. R. & Regs. r. 111-2-2-.22;

4. Pediatric Cardiac Catheterization and Open Heart Services, Ga. Comp. R. & Regs. r. 111-2-2-.23;

5. Perinatal Services, Ga. Comp. R. & Regs. r. 111-2-2-.24;

6. Freestanding Birthing Center Services, Ga. Comp. R. & Regs. r. 111-2-2-.25; and

7. Psychiatric and Substance Abuse Inpatient Services, Ga. Comp. R. & Regs. r. 111-2-2-.26;

(b) **Long-Term Care Rules**:

1. Skilled Nursing and Intermediate Care Facility Services, Ga. Comp. R. & Regs. r. 111-2-2-.30;

2. Personal Care Home Services, Ga. Comp. R. & Regs. r. 111-2-2-.31;

3. Home Health Services, Ga. Comp. R. & Regs. r. 111-2-2-.32;

4. Life Plan Community ("LPC") Sheltered Nursing Facilities, Ga. Comp. R. & Regs. r. 111-2-2-.33;

5. Traumatic Brain Injury Services, Ga. Comp. R. & Regs. r. 111-2-2-.34; and

6. Comprehensive Inpatient Physical Rehabilitation Services, Ga. Comp. R. & Regs. r. 111-2-2-.35;

7. Long Term Care Hospitals, Ga. Comp. R. & Reg. R. 111-2-2-.36

(c) **Special and Other Health Services**:

1. Ambulatory Surgical Services, Ga. Comp. R. & Regs. r. 111-2-2-.40;

2. Positron Emission Tomography Units, Ga. Comp. R. & Regs. r. 111-2-2-.41; and

3. Radiation Therapy Services, Ga. Comp. R. & Regs. r. 111-2-2-.42.

(2) The review considerations and standards that are promulgated in service-specific rules are considerations and standards that apply to specific services in addition to the general considerations in Ga. Comp. R. & Regs. r. 111-2-2-.09. Any conflict between the meaning or application of a service-specific requirement and the general considerations shall be interpreted in favor of the service-specific consideration, unless a general consideration specifically indicates that it supersedes any and all service-specific considerations.

(3) The meaning of words as they are defined in a particular service-specific rule only applies to that service-specific rule unless a specific citation is made to another service-specific rule.

(4) Numerical Need Calculations.

(a) The numerical need calculations, which shall apply to an application for a clinical health service for which service-specific rules exist, shall be the calculated need in effect on the date the application is deemed complete for review less any subsequently approved units and services during the review period. This provision does not apply to batching reviews as the need applicable to batching decisions is the need stated in the batching notice.

(b) In the instance of joined projects where one project is reviewed as an exception based on utilization and the other is reviewed as need-based, the approval of the utilization exception shall not preclude an approval based on a numerical need projection should, prior to the approval of any of the joined projects, the numerical need projection indicates a need for the clinical health service.

(c) Approved projects that affect service-specific numerical need calculations shall be added to the Department's service-specific inventories and the numerical need projections shall be adjusted as of the approved date of the project.

(d) Approved projects that are reversed through administrative and/or judicial appeal final resolution shall be subtracted from the Department's service-specific inventories and the numerical need projections shall be adjusted as of the date of such final resolution.

(5) Service-specific component plans provide general background on specific considerations that were undertaken in developing service-specific rules. The service-specific rules shall supersede a component plan.

(6) If any provision of these service-specific rules, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the particular service-specific rule in question or of the service-specific rules in general which can be given effect without the invalid provision or application, and to this end the provisions of these service-specific rules are severable.

(7) The commissioner shall be authorized, with the approval of the board, to place a temporary moratorium of up to six (6) months on the issuance of certificates of need for new and emerging health care services. Any such moratorium placed shall be for the purpose of promulgating service-specific rules and regulations regarding such new and emerging health care services. A moratorium may be extended one time for an additional three (3) months if circumstances warrant, as approved by the board. In the event that final service-specific rules and regulations are

not promulgated within the time period allowed by the moratorium, any applications received by the Department for a new and emerging health care service shall be reviewed under existing general statutes and regulations relating to certificates of need. Upon the identification by the Department of a new and emerging health care service as defined by Ga. Comp. R. & Regs. r. 111-2-2-.01(41), and the request for and receipt of approval by the board of a moratorium as provided in this subsection, the Department shall publish notice of the moratorium and the identified service in a manner used in the normal course for other Certificate of Need information and announcements.

Cite as Ga. Comp. R. & Regs. R. 111-2-2-.11

AUTHORITY: O.C.G.A. §§ 31-2 et seq., 31-6 et seq.

HISTORY: Original Rule entitled "Service-Specific Review Considerations Generally" adopted. F. Dec. 16, 2004; eff. Jan. 5, 2005.

Amended: F. Dec. 14, 2007; eff. Jan. 3, 2008.

Amended: F. Sept. 11, 2008; eff. Oct. 1, 2008.

Amended: F. Mar. 11, 2022; eff. Mar. 31, 2022.

Note: Rule 111-2-2-.11, the incorrect version of the Rule was inadvertently filed (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) and appeared on the Rules and Regulations website April 28, 2022 through March 12, 2023. The correct version, as promulgated and adopted on March 10, 2022, was updated on the Rules and Regulations website March 13, 2023, the original filed and effective dates (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) were retained, as requested by the Agency. Effective March 10, 2023.

Amended: F. Dec. 24, 2024; eff. Jan. 13, 2025.

111-2-2-.20 Specific Review Considerations for Short-Stay General Hospital Beds

(1) **Applicability.**

(a) A Certificate of Need will be required prior to the establishment of a new hospital, replacement of an existing hospital, or expansion of an existing hospital.

(b) The provisions in these Rules do not apply to the following situations:

1. bed replacements in existing hospital facilities; or

2. changing the physical location of existing beds within an existing facility; or

3. projects that are otherwise exempt from review pursuant to O.C.G.A. § 31-6-47(a) and Ga. Comp. R. & Regs. r. 111-2-2-.03.

(c) An existing hospital seeking an expansion to be used for new institutional health services, including perinatal services, or rehabilitation services, must meet the applicable service-specific Rules found in this chapter and, as a threshold matter, meet the need standards set forth in Ga. Comp. R. & Regs. r. 111-2-2-.20(3)(b)(3) but shall not be required to meet the other requirements in Ga. Comp. R. & Regs. r. 111-2-2-.20.

(d) A hospital that has been approved through the Certificate of Need process to use a certain number of short-stay hospital beds for long-term acute care ("LTAC") beds shall have such LTAC beds removed from the official inventory of available short-stay beds once the LTAC is certified by Medicare; provided, however, that such beds will revert to the hospital's official inventory of available short-stay beds at any point that the LTAC ceases operation or is no longer certified by Medicare. An application to use existing short-stay hospital beds for LTAC beds shall not be subject to the guidelines in Ga. Comp. R. & Regs. r. 111-2-2-.20.

(2) **Definitions**.

(a) "Age cohorts" for purposes of these Rules refers to the following age groups: persons zero (0) to seventeen (17); persons eighteen (18) to sixty-four (64); and persons sixty-five (65) and older.

(b) "Available beds" or "CON approved beds" means the total number of beds authorized for use by a hospital or group of hospitals based on capacity approved or authorized through the Certificate of Need process.

(c) "Children's hospital" means a hospital in which ninety percent (90%) or more of the patients served by the hospital are seventeen (17) or less years of age.

(d) "Critical Access Hospital" means a hospital designated as a critical access hospital pursuant to the state's rural health plan and the guidelines of the Medicare Rural Hospital Flexibility Program authorized by section 4201 of the Balanced Budget Act of 1997.

(e) "Destination cancer hospital" means an institution with a licensed bed capacity of fifty (50) or less which provides diagnostic, therapeutic, treatment, and rehabilitative care services to cancer inpatients and outpatients, by or under the supervision of physicians, and whose proposed annual patient base is composed of a minimum of sixty-five percent (65%) of patients who reside outside the State of Georgia.

(f) "Expansion" means the addition of available beds or CON approved beds for an existing hospital.

(g) "Health planning area" or "planning area" means the twelve (12) state service delivery regions as defined in O.C.G.A. § 50-4-7.

(h) "Horizon year" means the last year of a five (5) year projection period for need determinations.

(i) "Optimal Occupancy Rate" means a target or expected level of use of available beds as calculated based on the annual patient days divided by the available beds multiplied by three hundred sixty-five (365). The optimal occupancy rate is variable based on the following:

1. for hospitals located in a rural county, sixty-five percent (65%);

2. for hospitals located in a non-rural county, seventy-five percent (75%); and

3. for teaching or children's hospitals, seventy percent (70%).

(j) "Patient days" means the number of days of inpatient services based on the most recent full year of hospital discharge data or the annual hospital questionnaire.

(k) "Replacement" means new construction to substitute another facility for an existing facility. New construction may be considered a replacement only if the replacement site is located three (3) miles or less from the facility being replaced or, in the case of the facility proposing a replacement site beyond the three (3) mile limit, if the replacement site is located within the same county and would serve substantially the same patient population, based on patient origin by zip code and payer mix, as the existing facility.

(l) "Rural county" means a county having a population of less than 50,000 according to the United States decennial census of 2010 or any future such censes, as defined in O.C.G.A. § 31-7-94.1(c)(2).

(m) "Safety net hospital" is defined as a hospital that meets at least two (2) of following criteria:

1. the hospital is a children's hospital or a teaching hospital;

2. the hospital is designated by the Healthcare Facility Regulation Division as a trauma center;

3. Medicaid and Peach Care inpatient admissions constitute twenty percent (20%) or more of the total hospital inpatient admissions;

4. Uncompensated charges for indigent patients constitute six percent (6%) or more of hospital adjusted gross revenue; or

5. Uncompensated charges for indigent and charity patients constitute ten percent (10%) or more of hospital adjusted gross revenue.

(n) "Short stay hospital" or "hospital" is defined as a facility with an average length of stay of less than thirty (30) days.

(o) "Target service area population" means the total populations of all counties, which are in part or in whole, within a ten (10) mile radius of the planned location of a new, expanded, or replacement hospital.

(p) "Teaching hospital" means a hospital designated as a teaching hospital by the Georgia Board for Physician Workforce, which serves as a sponsoring or major participating hospital for a program of graduate medical education accredited by the Accreditation Council for Graduate Medical Education (ACGME) or the American Osteopathic Association (AOA) and maintains a written affiliation agreement with an accredited medical school located in Georgia or is owned and operated by an accredited medical school in Georgia.

(3) **Standards.**

(a) A new hospital must be at least fifty (50) beds in size if located in a rural county and at least one hundred (100) beds in size if located in a county other than a rural county.

(b) The need for a new, replacement or expanded hospital shall be determined through application of an appropriate numerical need methodology designed to assess need for the specific purpose sought in the application.

1. The numerical need for a new hospital shall be determined through application of a demand-based forecasting model. The model is outlined in the steps below:

(i) Calculate the use rate for current hospital services in the target service area population by dividing the patients days for each age cohort by the population for each age cohort for same year as patient days were calculated.

(ii) Project the horizon year use rate for hospital services in the target service area population by multiplying the use rate for current hospital services by age cohort by the horizon year population by age cohort.

(iii) Divide the results of the calculations in Step (ii) by 365 and sum these numbers to determine a baseline bed need.

(iv) Adjust the baseline bed need by adding a factor to account for use of the hospital services located within the target service area population by persons from out of state. The factor shall be determined by calculating the patient days for the hospitals in the target service area that may be attributed to persons from out of state as a percentage of total patient days, and then dividing that percentage into the baseline bed need. In addition, if the target service area population includes any county or counties outside the state of Georgia, the projected bed need of the out-of-state counties should be calculated by applying the projected rate of beds needed per 1,000 for in-state counties in the target service area population to the prorated portion of population in out-of-state counties.

(v) Divide the baseline bed need by the optimal occupancy rate, as determined by the size of the proposed new facility, to project the total number of beds needed for the target service area population.

(vi) Calculate the number of available beds for the target service area population by adding all of the short stay beds located in the counties, including those outside of Georgia if applicable, which are in part or in whole within a ten (10) mile radius of the planned location of the new hospital.

(vii) Subtract the number of available beds from the total number of beds needed for the target service area population to determine the net number of beds needed.

2. A new hospital shall be approved only if the total target service area population is at least 50,000 persons.

3. The numerical need for a replacement or expanded hospital shall be determined through application of a demand-based forecasting model. The model is outlined in the steps below:

(i) Calculate the county use rate for the current hospital's services by dividing the patients days for Georgia residents by county within each age cohort by the population by county for each age cohort for the same year as patient days were calculated.

(ii) Project the horizon year use rate for the hospital's services by multiplying each county use rate by age cohort by the horizon year population of each county by age cohort.

(iii) Sum the number of patients resulting from Step (ii) and divide by three hundred and sixty-five (365) to determine a baseline bed need rate.

(iv) Adjust the baseline bed need rate by adding a factor to account for use of the hospital's services by persons from out of state. The factor shall be determined by calculating the patient days for the hospital that may be attributed to persons from out of state as a percentage of total patient days, and then dividing that number into the baseline bed need.

(v) Divide by optimal occupancy rate, as determined by the size of the proposed facility, to project the total number of beds needed for the replacement or expanded hospital.

(vi) Compare the results of Step (v) with the number of beds requested for the replacement or expanded hospital and, if appropriate, the number of available beds to determine whether the proposed replacement or expanded hospital meets the need standards.

(c) The Department may allow an exception to need and adverse impact standards outlined in Ga. Comp. R. & Regs. r. 111-2-2-.20(3)(b) and (d) for a facility meeting any one of the following criteria:

1. The facility is an existing facility designated by the Department of Public Health as a trauma center;

2. The facility is an existing teaching hospital;

3. The facility is a sole community provider and more than twenty percent (20%) of the capital cost of any new, replacement or expanded facility is financed by the county governing authority, as defined in O.C.G.A. § 1-3-3(7), of the home county or the county governing authorities of a group of counties; or

4. The facility is a designated critical access hospital and is seeking replacement of its existing facility at a size not to exceed twenty-five (25) CON approved beds; or

5. The facility is an existing short-stay general hospital meeting one of the following conditions:

(i) A facility in an urban county or rural county seeking to add short-stay general hospital beds in response to the closure of a short-stay general hospital located within a five (5) mile radius;

(ii) A facility in a rural county seeking to add short-stay general hospital beds in response to the closure of a short-stay general hospital located in the same rural county or a contiguous county; or

(iii) A facility in an urban county seeking to add short-stay general hospital beds in response to the closure of a short-stay general hospital located in a contiguous rural county.

To qualify for an exception under Ga. Comp. R. & Regs. r. 111-2-2-.20(3)(c)5, the existing hospital must demonstrate that it will serve substantially the same patient population based on patient origin and payor mix data as the closed hospital, to be determined in the sole discretion of the Department. The expansion under Ga. Comp. R. & Regs. r. 111-2-2-.20(3)(c)5 may be for up to twenty percent (20%) of capacity of the applicant hospital and the application for a certificate of need under this exception shall be filed no more than eighteen (18) months after the closure of the short-stay general hospital. Notwithstanding the foregoing, the exception set forth in Comp. R. & Regs. r. 111-2-2-.20(3)(c)5 may be requested by an applicant only one (1) time in response to the closure of a particular short-stay general hospital unless such applicant provides written justification in support of a second request that is granted by the department in its sole discretion, if such justification was submitted within no more than eighteen (18) months after closure of that hospital.

(d) 1. An applicant for a new, replacement or expanded hospital shall demonstrate the expected effects of the proposed services on other hospitals within the target service area population, including how any enhanced competition will have a positive impact upon the cost, quality, and access to the services proposed; and in the case of applications for a new, replacement or expanded hospital where competition between providers will not have a favorable impact on cost, quality and access, the applicant shall be required to document that its application will not have an adverse impact.

2. An applicant for a new, replacement or expanded hospital shall document in its application that the new, replacement or expanded facility is not predicted to be detrimental to safety net hospitals within the planning area. Such demonstration shall be made by providing an analysis in the application that compares current and projected changes in market share and payer mix for the applicant and any safety net hospitals. Impact on an existing safety net hospital shall be determined to be adverse if, based on the utilization projected by the applicant, any existing safety net hospital would have a total decrease of ten percent (10%) or more in its average annual utilization, as measured by patient days for the two most recent and available preceding calendar years of data.

3. An applicant for a new, replacement or expanded hospital shall document in its application that the new, replacement or expanded facility is not predicted to be detrimental to any teaching hospitals in the state. Such demonstration shall be made by providing an analysis in the application that compares current and projected changes in market share and payer mix for the applicant and any teaching hospitals. Impact on an existing teaching hospital shall be determined to be adverse if, based on the utilization projected by the applicant, any existing teaching hospital would have a total decrease of five percent (5%) or more in its average annual utilization, as measured by patient days for the two most recent and available preceding calendar years of data.

(e) In considering applications joined for review, the Department may give favorable consideration to whichever of the applicants historically has provided the higher annual percentage of unreimbursed care to indigent and charity patients and the higher annual percentage of services to Medicare, Medicaid and Peach Care patients.

(f) An applicant for a new, replacement or expanded hospital shall foster an environment that assures access to individuals unable to pay, regardless of payment source or circumstances, by the following:

1. providing evidence of written administrative policies that prohibit the exclusion of services to any patient on the basis of age, race, sex, creed, religion, disability or the patient's ability to pay;

2. providing a written commitment that services for indigent and charity patients will be offered at a standard that meets or exceeds three percent (3%) of annual, adjusted gross revenues for the hospital;

3. providing a written commitment to participate in the Medicare, Medicaid and Peach Care programs;

4. providing a written commitment to participate in any other state health benefits insurance programs for which the hospital is eligible; and

5. providing documentation of the past record of performance of the applicant, and any facility in Georgia owned or operated by the applicant's parent organization, of providing services to Medicare, Medicaid, and indigent and charity patients.

(g) 1. An applicant for a replacement or expanded hospital shall document that the hospital is fully accredited by the Joint Commission or another nationally recognized accrediting body, and also shall provide sufficient documentation that the hospital has no history of significant licensure deficiencies and no history of conditional level Medicare and/or Medicaid certification deficiencies in the past three (3) years and has no outstanding licensure and Medicare and/or Medicaid certification deficiencies. In the event that the hospital is not accredited by the Joint Commission or another nationally recognized health care accreditation body and relies solely on state licensure, the applicant should provide sufficient documentation that the hospital has no history of significant licensure deficiencies and no history of conditional level Medicare and/or Medicaid certification deficiencies in the past five (5) years and has no outstanding licensure and Medicare and/or Medicaid certification deficiencies.

2. An applicant for a new, replacement or expanded hospital shall:

(i) provide a written commitment that the applicant presently participates, or in the case of a new hospital, will participate, in a statewide or national external reporting and peer review process related to patient safety and control of medical errors;

(ii) provide evidence of the availability of resources, including health care providers, management personnel and funds for capital and operating needs, for the provision of the hospital services; and

(iii) document a plan for obtaining and maintaining staff and service quality standards necessary to promote effective patient care and clinical outcomes.

(h) 1. An applicant for a new, replacement or expanded hospital shall document a plan to operate an emergency room licensed by the Healthcare Facility Regulation Division.

2. An applicant for a new, replacement or expanded hospital shall provide a description of the proposed service area for the hospital and document a community planning process that addresses primary care relationships and the range of transfer and referral activities across the range of care levels. The descriptions and community planning process should address:

(i) Estimated geographic boundaries of primary and secondary service areas and the primary and outpatient providers in these areas;

(ii) Demographic and income characteristics of the service area by age, gender and racial compositions;

(iii) Anticipated payer sources by population totals and percentages to include public payers and indigent and charity care services;

(iv) Patient access to the full continuum of care, including discharge planning and long-term care options;

(v) The projected financial and economic impact that the project will have on the community;

(vi) Strategies related to physician recruitment and medical staffing to include the hospital's plan to ensure that the care provided by physicians and other clinicians is made available to patients without regard for ability to pay;

(vii) The manner in which the facility coordinates or will coordinate with the existing health care system;

(viii) The manner(s) in which the hospital will make available the necessary ancillary and support services; and

(ix) The manner in which the hospital will support the operation of any affiliated critical access hospitals, if applicable.

3. An applicant for a new, replacement or expanded hospital shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the hospital.

4. An applicant for a new, replacement or expanded hospital shall demonstrate that proposed charges for services shall compare favorably with charges for other similar hospital services in the planning area when adjusted for annual inflation. When determining the accuracy of an applicant's projected charges for hospital services, the Department may compare the applicant's history of charges if applicable, with other hospitals in the planning area(s) previously served by the applicant or its parent company.

(i) 1. To respond to changes in the health care delivery system and to promote improved efficiency, access and cost-containment, the Department may authorize the consolidation of two or more hospitals located in one rural county or in contiguous rural counties. A proposal to consolidate hospitals into a single, new consolidated hospital requires a Certificate of Need and must comply with the following criteria.

2. Two or more existing facilities, each of which are operational at the time of approval and each of which are located in the same rural county or in contiguous rural counties, may seek a consolidation to create a single consolidated facility at an existing site or a new site within the same rural county or one of the same rural counties. The applicant or applicants for such a consolidated facility must be able to meet the following conditions:

(i) The available beds for the proposed consolidated facility must not exceed the total number of available beds of the existing facilities proposed for consolidation;

(ii) The applicant(s) for the proposed consolidated facility must show, using patient origin data, that the proposed new facility and/or location is reasonably projected to continue to meet the utilization needs of those populations that historically utilized the existing facilities;

(iii) The applicant(s) must explain the impact of consolidation on the service area's health care delivery system and show that any negative impacts on existing and approved providers will be outweighed by the benefits of the proposal;

(iv) The applicant must submit documentation demonstrating that the consolidation will promote the most efficient handling of patient needs; improve the ability to update medical technology infrastructure; maximize efficiency for capital and physical plant needs; and improve consumer access to enhanced quality and depth of services; and

(v) The applicant(s) must comply with all other provisions of this Rule with exception of the need and adverse impact standards set forth in Ga. Comp. R. & Regs. r. 111-2-2-.20(3)(b) and (d).

(j) 1. To respond to changes in the health care delivery system and to promote improved efficiency, access and cost-containment, the Department may authorize the consolidation of two or more hospitals located in one non-rural county. A proposal to consolidate hospitals into a single, new consolidated hospital requires a Certificate of Need and must comply with the following criteria.

2. Two or more existing facilities, each of which are operational at the time of approval and each of which are located in the same non-rural county, may seek a consolidation to create a single consolidated facility at an existing site or a new site within the same non-rural county. The consolidating facilities must apply as co-applicants. The applicant or applicants for such a consolidated facility must be able to meet the following conditions:

(i) The available beds sought for the proposed consolidated facility must not exceed the sum of the total number of beds for which each of the consolidating facilities would be authorized, at the time the application is filed, pursuant to the demand-based forecasting model for determining need set forth in Ga. Comp. R. & Regs. r. 111-2-2-.20(3)(b)3.

(ii) The applicant(s) for the proposed consolidated facility must show, using patient origin data by zip code, that the proposed new facility and/or location is reasonably projected to continue to meet the utilization needs of those populations that historically utilized the existing facilities;

(iii) The applicant(s) must explain the impact of consolidation on the facilities to be consolidated existing service area(s) health care delivery system and show that any negative impacts on existing and approved providers will be outweighed by the benefits of the proposal;

(iv) The applicant must submit documentation demonstrating that the consolidation will promote the most efficient handling of patient needs; improve the ability to update medical technology infrastructure; maximize efficiency for capital and physical plant needs; and improve consumer access to enhanced quality and depth of services; and

(v) The consolidating facilities must not seek to offer in a consolidation application any new clinical health service at the proposed new site not offered in each or all of the facilities to be consolidated.

(k) 1. A Certificate of Need will be issued to an applicant for a destination cancer hospital if it meets the following standards and under the following conditions.

2. An applicant for a destination cancer hospital must document that it meets the criteria described in the definition in Section (2)(e).

3. An applicant for a destination cancer hospital must:

(i) Document that the destination cancer hospital itself and all affiliated facilities are within twenty-five (25) miles of a commercial airport in the State of Georgia with five (5) or more runways;

(ii) Document that the services to be offered by the facility are solely related to the treatment of cancer patients;

(iii) Document the services to be offered within and by the facility that would otherwise be considered a separate new institutional health service. Such services will not be required to obtain separate Certificate of Need authorization, or be reviewed under any service-specific need methodology or rules other than those for a destination cancer hospital if included in the initial Certificate of Need application reviewed under the Rules outlined in section (k) of these Rules;

(iv) Document that the destination cancer hospital will not offer services that are not reasonable related to the diagnosis and treatment of cancer such as, but not limited to, open heart surgery, perinatal services, and cardiac catheterization;

(v) Document that at least sixty-five percent (65%) of its projected annual patient base will be composed of persons who reside outside of the State of Georgia;

(vi) Agree to provide uncompensated indigent and charity care for residents of the State of Georgia which meets or exceeds three percent (3%) of the applicant's adjusted gross revenue;

(vii) Agree to provide care to Medicaid beneficiaries;

(viii) Document that the applicant for a destination cancer hospital will comply with the criteria found in the General Review Considerations of these Ga. Comp. R. & Regs. r. at Section 111-2-2-.09(2).

4. A destination cancer hospital that does not meet an annual patient base composed of a minimum of sixty-five percent (65%) of patients who reside outside the State of Georgia in a calendar year shall be fined $2,000,000.00 for the first year of noncompliance, $4,000,000.00 for the second consecutive year of noncompliance, and $6,000,000.00 for the third consecutive year of noncompliance. Such fine amount shall reset to $2,000,000.00 after any year of compliance. In the event that a destination cancer hospital does not meet an annual patient base composed of a minimum of sixty-five percent (65%) of patients who reside outside of the State of Georgia for three (3) calendar years in a five (5) year period, such hospital shall be fined an additional amount of $8,000,000.00. All revenues collected from any such fine may be dedicated and deposited by the Department into the Indigent Care Trust Fund created pursuant to O.C.G.A. § 31-8-152. The Department, pursuant to O.C.G.A. § 31-6-45(a)(7), may revoke the Certificate of Need of a destination cancer hospital, in whole, or in part, after notice and an opportunity for a hearing, for failure to meet an annual patient base composed of a minimum of sixty-five percent (65%) of patients who reside outside of the State of Georgia for three calendar years in any five-year period.

5. After commencing operations upon receipt of a Certificate of Need pursuant to these Rules, a destination cancer hospital seeking to add an additional new institutional health service, shall apply for and obtain an additional Certificate of Need under the applicable statutory provisions and the Rules in this section. Any such application shall only be granted if the patient base of the destination cancer hospital is composed of at least sixty-five percent (65%) of patients who reside outside of the State of Georgia for two consecutive years.

6. The Department may apply the Rules in section (k) of these Rules to an application from a destination cancer hospital for a Certificate of Need for services and equipment required for it to meet federal or state laws applicable to a hospital.

7. If a destination cancer hospital cannot show a patient base of a minimum of sixty-five percent (65%) of persons who reside outside of the State of Georgia, the application for a Certificate of Need for any new institutional health service shall be evaluated under the specific statutes and Rules applicable to that particular service.

8. If a destination cancer hospital applies for a Certificate of Need to add an additional new institutional health service before commencing operations or completing two (2) consecutive years of operation, the applicant may rely on historical data from its affiliated entities.

9. The number of beds, services, and equipment used in and by a destination cancer hospital shall not be counted as part of the Department's inventory when determining the need for those beds, services, or equipment for other providers in other Certificate of Need applications not involving destination cancer hospitals.

10. No person shall be issued more than one Certificate of Need for a destination cancer hospital.

11. The Department will not accept an application for a Certificate of Need for a destination cancer hospital on or after January 1, 2010; however, an existing destination cancer hospital may avail itself of all applicable Certificate of Need provisions regarding the upgrade, purchase, or replacement of diagnostic or therapeutic equipment.

12. An applicant for a destination cancer hospital shall agree to provide information related to the operation of and services provided by the facility in the time frame and manner requested by the Department. In addition, a destination cancer hospital shall submit an annual statement, in accordance with the timeframes and format specified by the Department, affirming that the hospital has met an annual patient based composed of a minimum of sixty-five percent (65%) of patients who reside outside the State of Georgia. The chief executive officer of the destination cancer hospital shall certify under penalty of perjury that the statement as prepared accurately reflects the composition of the annual patient base. The Department shall have the authority to inspect any books, records, papers, or other information of the destination cancer hospital to confirm the information provided on such statement or any other information required of the destination cancer hospital. The report required by this sub-section shall not be construed to require the release of any information that would violate the Health Insurance Portability and Accountability Act of 1996, P.L. 104-191.

Cite as Ga. Comp. R. & Regs. R. 111-2-2-.20

AUTHORITY: O.C.G.A. §§ 31-2-8**,** 31-7-2.2**,** 31-7-4**,** 31-7-3.5**.**

HISTORY: Original Rule entitled "Specific Review Considerations for Short-Stay General Hospital Beds" adopted. F. Dec. 16, 2004; eff. Jan. 5, 2005.

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Note: Rule 111-2-2-.20, the incorrect version of the Rule was inadvertently filed (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) and appeared on the Rules and Regulations website April 28, 2022 through March 12, 2023. The correct version, as promulgated and adopted on March 10, 2022, was updated on the Rules and Regulations website March

13, 2023, the original filed and effective dates (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) were retained, as requested by the Agency. Effective March 10, 2023.

Amended: F. Feb. 14, 2024; eff. Mar. 5, 2024.

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111-2-2-.21 Specific Review Considerations for Adult Cardiac Catheterization Services

(1) **Applicability.**

(a) For Certificate of Need purposes, Adult Cardiac Catheterization Services is classified as a specialized service and is defined as a new institutional health service which must be delivered in a permanently fixed location in either an acute care hospital or in a diagnostic, treatment, or rehabilitation center ("DTRC"). A Certificate of Need will be required prior to the establishment of a new or expanded adult cardiac catheterization service, if not exempt as provided by O.C.G.A. § 31-6-47(a)(21) and Ga. Comp. R. & Regs. r. 111-2-2-.03(24).

(b) If the service will be provided within a licensed acute care hospital, the hospital shall be the applicant.

(c) If cardiac catheterization services will be provided in a DTRC, the organizational entity that develops the service shall be the applicant.

(d) Seeking and receiving approval from the Department under the provisions of Ga. Comp. R. & Regs. r. 111-2-2-.21(3)(f)3. shall neither be considered a new adult cardiac catheterization service nor an expanded service. Additionally, the issuance of such an approval shall not be construed to be anything other than a time-limited approval to participate in the particular medical research trial specified in Ga. Comp. R. & Regs. r. 111-2-2-.21(3)(f)(3).

(2) **Definitions.**

(a) "Adjacent acute care hospital" means an acute care hospital which is physically connected to another acute care hospital in a manner that emergency transport of a patient by a stretcher or gurney can be achieved rapidly, conveniently, and effectively without the use of motorized vehicles.

(b) "Adult" means a person fifteen (15) years of age and over.

(c) "Authorized service" means an adult cardiac catheterization service that is either existing or approved. An existing service is an authorized service that has become operational, and an approved service is an authorized service that has not yet become operational.

(d) "Capacity" means 1300 adult cardiac catheterization procedure equivalents per dedicated and multipurpose room per year. In the computation of the use rate (percent of capacity) of authorized adult cardiac catheterization rooms, each adult diagnostic cardiac catheterization and other cardiac catheterizations of similar complexity shall equal a 1.0 procedure equivalent, each coronary angioplasty procedure shall equal 1.5 procedure equivalents, and each electrophysiological (EP) study shall equal 2.0 procedure equivalents. If pediatric catheterizations are performed in a room in which adult cardiac catheterizations are performed, each pediatric procedure shall equal 2.0 procedure equivalents.

(e) "Cardiac catheterization" means a medical diagnostic or therapeutic procedure during which a catheter is inserted into a vein or artery in the patient; subsequently, the free end of the catheter is manipulated by the physician to travel along the course of the blood vessel into the chambers or vessels of the heart. X-rays and an electronic image intensifier are used as aids in placing the catheter tip in the desired position. When the catheter is in place, the physician is able to perform various diagnostic studies and/or therapeutic procedures on the heart or its vessels.

(f) "Cardiac catheterization service" means an organized program which serves inpatients and/or outpatients of an acute care hospital or diagnostic, treatment and rehabilitation center (DTRC) with a room or a suite of rooms, with equipment to perform angiographic, physiologic, and as appropriate, therapeutic cardiac catheterization procedures. An authorized adult cardiac catheterization service is prohibited from performing coronary angioplasty procedures unless the acute care hospital where the service is located meets the requirements identified in Ga. Comp. R. & Regs. r. 111-2-2-.21(3)(f).

(g) "Coronary angioplasty" means a cardiac catheterization procedure to treat coronary artery disease by utilizing a catheter with a balloon, laser, laser-assisted device, rotational device, stent placement or other mechanical means to unblock an occluded coronary artery.

(h) "Diagnostic cardiac catheterization" means the performance of cardiac catheterization for the purpose of detecting and identifying defects in the great arteries or veins of the heart, or abnormalities in the heart structure, whether congenital or acquired. Post-operative evaluation of the effectiveness of prostheses (e.g., heart valves or vein grafts) also can be accomplished through use of diagnostic cardiac catheterization.

(i) "Diagnostic, treatment, or rehabilitation center (DTRC)" means any professional or business undertaking, whether for profit or not for profit, which offers or proposes to offer any clinical health service in a setting that is not part of a hospital.

(j) "Expanded Service" or "Expansion" means an adult cardiac catheterization service that undertakes any capital renovation or construction project in and to the physical space within the hospital where the cardiac catheterization services are or will be offered; or that acquires a piece of diagnostic or therapeutic equipment which is to be utilized in the provision of cardiac catheterization services; or that seeks the addition of a new catheterization laboratory or room regardless of cost. Replacement or repair of existing diagnostic or therapeutic equipment utilized in the provision of such services is not an expansion for purposes of these Rules.

(k) "Horizon year" means the last year of a five-year projection period for need determinations for any adult cardiac catheterization services.

(l) "Official inventory" means the Department's inventory of all authorized hospital-based and diagnostic, treatment, or rehabilitation center (DTRC) adult cardiac catheterization laboratories or any other authorized laboratory approved for operation at the time of adoption of these Rules.

(m) "Official state component plan" means the document related to specialized cardiovascular services developed by the Department adopted by the Health Strategies Council and approved by the Board of Community Health.

(n) "Procedure" means a cardiac catheterization study or treatment or combination of studies and/or treatments performed in a single session on a single patient who appears for cardiac catheterization.

(o) "Planning area" means each of the planning areas designated in the official State Component Plan.

(p) "Therapeutic cardiac catheterization" means the performance of cardiac catheterization for the purpose of ameliorating certain conditions that have been determined to exist in the heart or great arteries or veins of the heart.

(3) **Standards.**

(a) The need for new or expanded adult cardiac catheterization services shall be determined through application of a numerical need method and an analysis of service demand based on an assessment of the aggregate utilization rate of existing services;

1. the numerical need for new or expanded adult cardiac catheterization services shall be determined by a population-based formula which includes current usage patterns and projected population as follows:

(i) calculate the current state adult cardiac catheterization rate for the most recent year of reported survey or hospital and outpatient discharge data by dividing the total number of adult cardiac catheterizations performed on Georgia residents by the total state adult Resident population;

(ii) determine the projected adult cardiac catheterization procedures for the horizon year by multiplying the state rate by the adult Resident population for the planning area for the horizon year;

(iii) adjust the projected adult cardiac catheterization procedures for the planning area by adding the out-of-state hospital-based catheterizations for the most recent year based on the percentage of total procedures performed on out-of-state patients by hospitals in each planning area;

(iv) convert projected adult cardiac catheterization procedures to procedure equivalents by multiplying the projected procedures by the statewide rate of equivalents per catheterization; and

(v) determine the projected net surplus or deficit for adult cardiac catheterization capacity, expressed in terms of rooms/laboratories, in the planning area by subtracting the rooms/laboratories needed for the total projected procedure equivalents calculated in steps (i) through (iv) from the total capacity (1300 procedure equivalents per room/laboratory) based on the official inventory.

2. before a new or expanded adult cardiac catheterization service will be approved in any planning area, the aggregate utilization rate of all adult cardiac catheterization services in that planning area shall be eighty-five percent (85%) or more during the most recent year;

(b) 1. The Department may allow an exception to Ga. Comp. R. & Regs. r. 111-2-2-.21(3)(a) in the following circumstances:

(i) actual utilization in the applicant's existing service has exceeded ninety percent (90%) of capacity over the past two (2) years;

(ii) to remedy an atypical barrier to adult cardiac catheterization services based on cost, quality, financial access, or geographic accessibility. The types of atypical barriers outlined below are intended to be illustrative and not exclusive.

(I) An atypical barrier to services based on cost may include the failure of existing providers of adult cardiac catheterization services to provide services at reasonable cost, as evidenced by the providers' charges and/or reimbursement being significantly higher (one or more standard deviations from the mean) than the charges and/or reimbursement for other providers in the state and/or planning area.

(II) An atypical barrier to services based on quality may include the failure of existing providers of adult cardiac catheterization services to provide services with outcomes generally in keeping with accepted clinical guidelines of the American College of Cardiology, peer review programs and comparable state rates for similar populations.

(II) An atypical barrier to services based on financial access may include the repeated failure, as exhibited by a documented pattern over two or more years prior to the submission of the application, of existing providers of services within the community to provide services to indigent, charity, and Medicaid patients.

(IV) An atypical barrier to services based on geographic accessibility may include a planning area which has an adult cardiac catheterization rate significantly less than the state rate (two or more standard deviations from the mean), a cardiovascular disease rate as projected through death and hospital discharge data which is significantly higher than the state rate (two or more standard deviations from the mean), and other demographic risk factors which can be documented through research and clinical studies.

(V) An applicant seeking approval for a new or expanded adult cardiac catheterization service solely for the purpose of providing cardiac electrophysiological studies may apply for consideration under the terms of an atypical barrier; provided, however, that any such applicant if approved shall be restricted to the provision of electrophysiological studies.

2. The Department may allow an exception to Ga. Comp. R. & Regs. r. 111-2-2-.21(3)(a) and (3)(c) for any cardiac catheterization service seeking an expansion, other than the addition of another laboratory or room; provided the applicant complies with the general considerations and policies of Ga. Comp. R. & Regs. r. 111-2-2-.09 and submits an application that demonstrates the applicant's compliance with or documents a plan and agreement to comply with Ga. Comp. R. & Regs. r. 111-2-2-.21(3)(d),(e),(f),(g),(h),(j),(k) and (l).

(c) An applicant for a new or expanded adult cardiac catheterization service shall document that authorized cardiac catheterization services which could be adversely impacted by the establishment of the new or expanded service are not predicted to perform less than eighty percent (80%) of capacity as a result of the establishment of the new or expanded service. In the case of an approved service, service volume should be projected in accordance with the volume projections in the approved application.

(d) An applicant for a new or expanded adult catheterization service shall demonstrate a plan whereby the service and its medical staff agree to provide a full array of cardiovascular services to the community, including, but not limited to, education and outreach, prevention and screening, diagnosis and treatment, and rehabilitation.

(e) An applicant for a new or expanded adult cardiac catheterization services shall:

1. demonstrate the ability to meet the optimal clinical and physical environment standards established in the most recent American College of Cardiology/American Heart Association's Guidelines for Cardiac Catheterization and Cardiac Catheterization Laboratories. These standards include, but are not limited to, physical facility requirements, staffing, training, quality assurance, patient safety, screening patients for appropriate settings, and linkages with supporting emergency services;

2. document the availability of, or shall present a plan for recruiting, at least two board-certified cardiologists with training and qualification in cardiac catheterization, and, if applicable with training and qualification in coronary intervention, who will reside within one hour drive of the service site; and

3. document a plan for obtaining a sufficient number of clinical, professional and technical staff to safely and effectively operate the service.

(f) An authorized adult cardiac catheterization service shall not perform catheterization procedures requiring open heart surgery backup as part of its service unless the acute care hospital where the service is located:

1. operates an existing adult open heart surgery service;

2. has a Department approved written agreement for open heart surgery backup with an adjacent acute care hospital as defined by these Rules; or

3. has been accepted as a participant in a randomized medical research trial comparing patient outcomes after non-primary Percutaneous Coronary Intervention (PCI) in hospitals with and without cardiac surgery on-site, which also requires the performance of Primary PCI and has a parallel Primary PCI Registry, and which is coordinated by the Atlantic Cardiovascular-Patient Outcomes Research Team (Atlantic C-PORT). The authorized adult cardiac catheterization service must receive such Atlantic C-PORT acceptance and also must obtain written approval from the Department to perform such procedures, except that the Department may approve no more than ten (10) existing and authorized hospital services for participation, regardless of the number of such services that are accepted by Atlantic C-PORT.

(i) Any request for such Departmental approval must be submitted to the Department no later than June 30, 2005 in writing on a form developed by the Department for such purposes. Prior to final approval to participate by the Department, the requesting authorized service must provide written proof it has been accepted by Atlantic C-PORT as a participant in said trial under all applicable protocols;

(ii) In reviewing and approving such requests, the Department shall take into consideration such factors including, but not limited to, rural, suburban or urban location of the service, mix of patients to be treated, whether the service

has the capability of performing a minimum of 100 PCIs (elective and primary combined) during the first year of such approval, 200 PCIs (elective and primary combined) during the second year of such approval unless a lower number, but not below 150 PCIs, is approved for specific reasons by both the Department and the trial chairperson, and 200 PCIs (elective and primary combined) during the third year of such approval, and whether the service has on its staff physicians and support staff with training and experience in both therapeutic and diagnostic cardiac catheterizations;

(iii) The selection of an authorized service for participation pursuant to this Rule will be made at the sole discretion of the Department; however, the Department shall consult with medical experts in the fields of cardiology and percutaneous coronary intervention when making the decision to approve or not approve a particular service for participation in such trial;

(iv) Any approval obtained from the Department in this regard shall only be valid for as long as the health care facility receiving such approval is an active participant in the trial; however, in no case shall such approval continue to be valid upon Atlantic C-PORT declaring the trial concluded, or under no circumstance for a period in excess of three (3) years from the time the authorized service's first procedure is conducted under the authority of the Department's approval and Atlantic C-PORT's acceptance to begin active participation in the trial; whichever event occurs first; and

(v) As any such Departmental approval is conditioned on being an active participant in the trial, should an authorized service which has received approval under the provisions of this Rule be expelled or otherwise lose the approval of Atlantic C-PORT to continue participation, the Department's approval will be simultaneously withdrawn without said service's or facility's right to an appeal of the Department's withdrawal of its approval to participate in such trial.

(g) Catheterization procedures requiring open heart surgery backup include coronary angioplasty and the following:

1. catheter atherectomy;

2. catheter endomyocardial biopsy;

3. left ventricular puncture;

4. percutaneous transluminal coronary angioplasty;

5. percutaneous catheter balloon valvuloplasty; and

6. transeptal catheterization.

(h) An applicant for a new or expanded adult cardiac catheterization service shall:

1. submit a written plan to the Department which, when implemented, will ensure access to cardiac catheterization services for all segments of the population in the documented and proposed service area of the applicant. Such plan shall provide a detailed strategy to reach patients not currently served within the service area, ensure continuity of care for patients transferred between facilities and shall promote planning for a continuum of cardiac services within the service area; and

2. propose a heart disease prevention and clinical intervention program to be provided by the applicant or through formal referral agreements which, when implemented, shall include:

(i) A clinical intervention program for all catheterization patients that shall provide for the following in a comprehensive, systematic way:

(I) Assessment of risk factors including lipid disorders, hypertension, diabetes, obesity, cigarette smoking, and sedentary lifestyle;

(II) Assessment of risk factors and referral for appropriate care in first-degree relatives; and

(III) Assure risk management including modification of lipid disorders by diet/exercise/drugs, modification of blood pressure level by diet/exercise/drugs, control of blood glucose level by diet/exercise/drugs, dietary counseling aimed at reduced caloric and fat intake and appropriate weight management, smoking cessation, and exercise prescription. Patients should be referred to their primary care provider with documentation of treatments provided and actions recommended including preventive therapies.

(ii) The program, if not operated by a facility with an existing Open Heart Surgical Service, shall submit a written affiliation agreement with at least one Open Heart Surgical Service that provides, at a minimum, for:

(I) a plan to transplant and handle acute cardiac emergencies;

(II) a plan to facilitate referral of patients for whom surgery or angioplasty may be indicated without unnecessarily repeating diagnostic studies; and

(II) a plan for ongoing communications between representatives of the Open-Heart Surgical Service and the proposed applicant, to allow for review of pre-operative and post-operative processes and specific cases.

(iii) The program shall provide for annual support and participation in at least three (3) professional education programs targeted to community-based health professionals, related to heart disease risk assessment, diagnostic procedures, disease management in clinical settings, and case finding and referral strategies.

(iv) Community based heart health promotion:

(I) The program shall provide for organization of or participation in a consortium of community-based organizations to complete an assessment of heart disease risk factors in the community as well as resources available to provide programs and services. The objective of this consortium is to mobilize and coordinate resources to target at-risk populations in the community; and

(II) Organization of or participation in at least one major community-based campaign each year related to major heart disease risk factors.

3. propose a system of outcome monitoring and quality improvement and identify at least five clinical outcomes that the applicant proposes to monitor for performance on a regular basis.

(i) An applicant for a new or expanded adult cardiac catheterization service must project and, if approved, shall document that the proposed service will be performing a minimum of 1040 adult cardiac catheterization procedure equivalents within three (3) years of initiation of the service and annually thereafter within the authorized guidelines for such services. Such projections, at a minimum, shall include consideration of patient origin data for catheterization services, the use rate of existing services, referral data and market patterns for existing hospital and DTRC services in the community, and cardiovascular disease incidence rates and related health indicators. An applicant seeking approval solely for the purpose of providing electrophysiological (EP) studies shall not be required to document a projected performance minimum but shall be required to document compliance with guidelines for EP studies issued by the American College of Cardiology.

(j) An applicant for a new or expanded adult cardiac catheterization service shall provide documentation that the service is fully accredited by the Joint Commission or another nationally recognized health care accreditation body, in the case of an applicant proposing a new facility location, shall provide a written commitment to secure full accreditation by the Joint Commission or another nationally recognized health care accreditation body within eighteen (18) months of initiating operation.

(k) An applicant for a new or expanded adult cardiac catheterization service shall foster an environment that assures access to individuals unable to pay, regardless of payment source or circumstances, by the following:

1. providing a written policy regarding the provision of any services provided by or on behalf of the applicant to include disease prevention and intervention services outlined in Ga. Comp. R. & Regs. r. 111-2-2-.21(3)(h), that such services shall be provided regardless of race, age, sex, creed, religion, disability or patient's ability to pay, and documentation or evidence that the applicant has a service history reflecting the principles of such a policy;

2. providing a written commitment that services for indigent and charity patients will be offered at a standard which meets or exceeds three percent (3%) of annual, adjusted gross revenues for the adult cardiac catheterization service, or the applicant may request that the Department consider allowing the commitment for services to indigent and charity to patients to be applied to the entire facility;

3. providing a written commitment to accept any patient within the facility's service area, without regard to the patient's ability to pay, unless such patient is clinically inappropriate;

4. providing a written commitment to participate in the Medicaid, PeachCare and Medicare programs and to accept any Medicaid-, PeachCare- and/or Medicare-eligible patient for services unless such patient is clinically inappropriate;

5. providing a written commitment that the applicant, subject to good faith negotiations, will participate in any state health benefits insurance programs for which the service is deemed eligible; and

6. providing documentation of the past record of performance of the applicant, and any facility in Georgia owned or operated by the applicant's parent organization, of providing services to Medicare, Medicaid and indigent and charity patients. The applicant's or its parent organization's failure to provide services at an acceptable level to Medicare, Medicaid and indigent and charity patients, and/or the failure to fulfill any previously made commitment to indigent and charity care may constitute sufficient justification to deny the application.

(l) An applicant for a new or expanded adult cardiac catheterization service must agree in writing to the following conditions:

1. establishment and maintenance of a system of continuity of care and coordination of service, as evidenced by regular and ongoing planning and quality improvement sessions with community health providers and advocacy programs;

2. participation in a data reporting, quality improvement, outcome monitoring, and peer review system within the applicant hospital or DTRC as well as a national, state or multi-program system which benchmarks outcomes based on national norms and which shall be named in the application and which provides for peer review between and among professionals practicing in facilities and programs other than the applicant hospital or DTRC;

3. development of procedures to ensure that cardiologists and any other physicians providing care in the cardiac catheterization service or related services shall be required to accept Medicaid, PeachCare and Medicare payment for services without discrimination;

4. commitment that charges for services shall be reasonable and comparable to other providers in the state and the service area;

5. provision of all required data and survey information to the Department as requested; and

6. commitment to act in good faith to fulfill all provisions and commitments documented in the application for a new or expanded service.

(m) The Department may revoke a Certificate of Need after notice to the holder of the certificate and a fair hearing pursuant to the Georgia Administrative Procedure Act for failure to comply with the defined scope, location, cost, service area, and person named in an application as approved by the Department and for the intentional provision of false information to the Department by an applicant in that applicant's application.

Cite as Ga. Comp. R. & Regs. R. 111-2-2-.21

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111-2-2-.22 Specific Review Considerations for Adult Open Heart Surgery Services

(1) **Applicability.** A Certificate of Need will be required prior to the establishment of a new or, subject to certain stipulations, expanded adult open heart surgical service.

(2) **Definitions.**

(a) "Adult" means persons 15 years of age and over.

(b) "Authorized service" means an adult open heart surgery service that is either existing or approved. An existing service is an authorized service that has become operational, and an approved service is an authorized service that has not become operational.

(c) "Coronary Angioplasty" means a cardiac catheterization procedure to treat coronary heart disease by utilizing a catheter with a balloon, laser, laser-assisted device, rotational device, stent placement or other mechanical means to unblock an occluded coronary artery.

(d) "Expanded Service" or "Expansion" means an adult open heart surgery service that undertakes any capital renovation or construction project in and to the physical space within the hospital where the adult open heart surgery service is or will be offered; or that acquires a piece of diagnostic or therapeutic equipment which is to be utilized in the provision of open heart surgery services; or, for any service a full four (4) years or more following implementation of an approved Certificate of Need, that increases adult open heart surgery volume to a level resulting in a twenty-five percent (25%) or more increase in procedures being performed by the service over the higher annual number of procedures having been performed during the most recent prior two calendar years. Replacement or repair of existing diagnostic or therapeutic equipment utilized in the provision of such service is not an expansion for purposes of these Rules.

(e) "Official State Component Plan" means the document related to specialized cardiovascular services developed by the Department established by the Health Strategies Council, and adopted by the Board of Community Health.

(f) "Open heart surgery" means surgery performed directly on the heart or its associated veins or arteries during which a heart and lung by-pass machine (extracorporeal pump) may be used to perform the work of the heart and lungs.

(g) "Open heart surgery service" means an organized surgical program that serves inpatients of a hospital that has a suitable operating room or suite of operating rooms, equipment, staff, intensive care unit, and all support services

required to perform adult open-heart surgery. The adult open heart surgery service shall be located in an acute care hospital that has an authorized adult cardiac catheterization service.

(h) "Procedure" means an adult open heart surgery operation or combination of operations performed in a single session on a single patient who appears for open heart.

(3) **Standards.**

(a) 1. An application for new adult open heart surgery services shall be considered by the Department only if each and all of the following conditions are met:

(i) an applicant must have operated an existing adult cardiac catheterization service which is located in an acute care hospital setting for at least three (3) years prior to the date of application; and

(ii) an applicant shall document, based on actual service data of the applicant, survey data provided to the Department and other supporting research and documentation, that the hospital's existing adult cardiac catheterization service generated a minimum of 250 or more adult open heart surgery procedures in each of the two (2) calendar years immediately prior to submittal of the application; and

(iii) an applicant shall project and, if approved, shall document that the proposed adult open heart surgery service will be performing a minimum of 300 adult open heart surgery procedures per year within three years of initiation of the service. Such projections, at a minimum, shall include consideration of patient origin data for open heart and catheterization services, the use rate of existing services, and referral data and market patterns for existing hospital services, and cardiovascular disease incidence rates and related health indicators; and

(iv) an applicant shall document that existing and approved adult open heart surgery services in the state are not predicted to be adversely impacted as a result of the establishment of the new service. Impact on an existing or approved service shall be determined to be adverse if, based on the number of cases projected to be performed by the applicant, any of the existing or approved services would have either a decrease in volume equal to or greater than ten percent (10%) of the average annual service volume in the preceding two calendar years or a decrease of less than ten percent (10%) of the annual service volume in the preceding two calendar years but which would result in such service falling below a minimum of 200 open heart surgical procedures annually. In the case of an approved service, service volume should be projected in accordance with the volume projections in the approved application. An existing service that has been operational for four or more years and has not performed a minimum of 200 open heart surgical procedures in at least one of the past four years shall be excluded from a determination of adverse impact; and

(v) if multiple applications are joined or comparatively reviewed, the Department shall determine whether the individual impact of the establishment of each proposed service or the cumulative impact of the establishment of two or more proposed services would adversely impact an existing or approved service or any of the proposed services if established.

2. The Department may allow an exception to the need standard and adverse impact requirements in Ga. Comp. R. & Regs. r. 111-2-2-.22(3)(a)1. of this paragraph to remedy an atypical barrier to open heart surgery services based on cost, quality, financial access, or geographic accessibility. The types of atypical barriers outlined below are intended to be illustrative and not exclusive.

(i) An atypical barrier to services based on cost may include the failure of existing providers of open-heart surgical services to provide services at reasonable cost, as evidenced by the providers' charges and/or reimbursement being significantly higher (one or more standard deviations from the mean) than the charges and/or reimbursement for other providers in the state.

(ii) An atypical barrier to services based on quality may include the failure of existing providers of open-heart surgical services to provide services with outcomes generally in keeping with accepted clinical guidelines, peer review programs and comparable state rates for similar populations.

(iii) An atypical barrier to services based on financial access may include the repeated failure as exhibited by a documented pattern over two or more years prior to the submission of the application, of an existing provider or group of providers of open-heart surgical services within the community to provide services to indigent, charity and Medicaid patients.

(b) 1. An existing adult open heart surgery service seeking an expansion or expanded service due to a capital or equipment expenditure shall be approved if the applicant complies with the general considerations and policies of Ga. Comp. R. & Regs. r. 111-2-2-.09 and submits an application that demonstrates the applicant's compliance with or documents a plan and agreement to comply with the provisions of Ga. Comp. R. & Regs. r. 111-2-2-.22(3)(c),(d),(e),(g),(h) and (j).

2. Any existing service seeking an expansion or expanded service based on an increase in procedures pursuant to the definition in Ga. Comp. R. & Regs. r. 111-2-2-.22(2)(d) may request a determination from the Department that the service is fully in compliance with the provisions of Ga. Comp. R. & Regs. r. 111-2-2-.22(3)(c),(d),(e),(g),(h) and (j). The Department may issue a determination that the service is in compliance. If the Department issues such a determination, the service will not be required to apply for a Certificate of Need. If the Department determines that the service is not in compliance with the above referenced conditions, the service will be required to submit a Certificate of Need application.

(c) An applicant requesting a new or expanded adult open heart surgery service shall comply with the following three requirements:

1. Document that the open-heart surgery service shall have the capability to implement circulatory assist devices such as intra-aortic balloon assist and prolonged cardiopulmonary procedures, including at a minimum:

(i) repair and replacement of heart valves;

(ii) cardiac revascularization;

(iii) treatment of cardiac trauma;

(iv) repair of congenital defects in adults; and

(v) repair of acute aortic dissection.

2. Document that the applicant has available to the open-heart surgery service a full range of hospital-based diagnostic, ancillary, and support services, including the following organizational departments or services:

(i) medicine: cardiology, hematology, nephrology;

(ii) radiology: diagnostic, nuclear medicine;

(iii) surgery: cardiovascular, thoracic;

(iv) pathology: anatomic, clinical, blood bank, coagulation laboratory;

(v) anesthesiology: inhalation therapy; echocardiology in the operating room;

(vi) neurology;

(vii) special laboratories: cardiac catheter/angiographic;

(viii) clinical dietary;

(ix) cardiac surgical intensive care unit;

(x) pacemaker therapy;

(xi) cardiac rehabilitation services;

(xii) renal dialysis; and

(xiii) social services.

3. Document that the service shall be available for elective procedures as needed, at least eight hours per day, five days a week, and shall document the capability to rapidly mobilize surgical and medical support teams for emergency cases 24 hours per day, seven days per week, including a plan for utilizing this capability when needed to perform emergency procedures.

(d) An applicant for a new or expanded adult open heart surgery service shall:

1. submit a written plan to the Department which, when implemented, will ensure access to cardiac surgical services for all segments of the population in the documented and proposed service area of the facility and service. Such plan shall provide a detailed strategy to reach patients not currently served within the service area, ensure continuity of care for patients transferred between facilities and shall promote planning for a continuum of cardiac services within the service area;

2. propose a heart disease prevention program to be provided by the applicant or through formal referral agreements which, when implemented, shall include:

(i) Clinical intervention for cardiac patients (any inpatient or outpatient with a principal diagnosis of ischemic heart disease). These patients are at high risk for development of adverse cardiovascular events and the program shall provide for the following in a comprehensive, systematic way:

(I) Assessment of risk factors including lipid disorders, hypertension, diabetes, obesity, cigarette smoking, and sedentary lifestyle;

(II) Assessment of risk factors and referral for appropriate care in first-degree relatives;

(III) Assure risk management including modification of lipid disorders by diet/exercise/drugs, modification of blood pressure level by diet/exercise/drugs, control of blood glucose level by diet/exercise/drugs, dietary counseling aimed at reduced caloric and fat intake and appropriate weight management, smoking cessation, and exercise prescription. Patients should be referred to their primary care provider with documentation of treatments provided and actions recommended; and

(IV) Establishment and maintenance of systems to assist in tracking and follow-up to determine attendance at referred services and status of risk management.

(ii) Clinical intervention for non-cardiac patients (any inpatient or outpatient whose principal diagnosis is not ischemic heart disease). For these patients, the program shall encourage the following:

(I) Assessment of risk factors including, hypertension, hypercholesterolemia, smoking, obesity, sedentary lifestyle, and history of diabetes;

(II) Provision of appropriate counseling and referral for diagnostic evaluation, treatment and risk factor modification; and

(III) Establishment and maintenance of record systems to assist in documenting risk factors identified, referrals made, and other follow-up action taken.

(iii) The program shall assure access to cardiac rehabilitation services, provided either by the hospital itself or through formal referral agreements.

(iv) The program shall provide for annual support and participation in at least three professional education programs targeted to community-based health professionals, related to heart disease risk assessment, disease management in clinical settings, and case finding and referral strategies.

(v) Community based heart health promotion:

(I) The program shall provide for organization of or participation in a consortium of community-based organizations to complete an assessment of heart disease risk factors in the community as well as resources available to provide programs and services. The objective of this consortium is to mobilize and coordinate resources for target populations in the community; and

(II) Organization of or participation in at least one major community-based campaign each year related to major heart disease risk factors; and

(3) **Standards.**

(a) 1. An application for new adult open heart surgery services shall be considered by the Department only if each and all of the following conditions are met:

(i) an applicant must have operated an existing adult cardiac catheterization service which is located in an acute care hospital setting for at least three (3) years prior to the date of application; and

(ii) an applicant shall document, based on actual service data of the applicant, survey data provided to the Department and other supporting research and documentation, that the hospital's existing adult cardiac catheterization service generated a minimum of 250 or more adult open heart surgery procedures in each of the two (2) calendar years immediately prior to submittal of the application; and

(iii) an applicant shall project and, if approved, shall document that the proposed adult open heart surgery service will be performing a minimum of 300 adult open heart surgery procedures per year within three years of initiation of the service. Such projections, at a minimum, shall include consideration of patient origin data for open heart and catheterization services, the use rate of existing services, and referral data and market patterns for existing hospital services, and cardiovascular disease incidence rates and related health indicators; and

(iv) an applicant shall document that existing and approved adult open heart surgery services in the state are not predicted to be adversely impacted as a result of the establishment of the new service. Impact on an existing or approved service shall be determined to be adverse if, based on the number of cases projected to be performed by the applicant, any of the existing or approved services would have either a decrease in volume equal to or greater than ten percent (10%) of the average annual service volume in the preceding two calendar years or a decrease of less than ten percent (10%) of the annual service volume in the preceding two calendar years but which would result in such service falling below a minimum of 200 open heart surgical procedures annually. In the case of an approved service, service volume should be projected in accordance with the volume projections in the approved application. An existing service that has been operational for four or more years and has not performed a minimum of 200 open heart surgical procedures in at least one of the past four years shall be excluded from a determination of adverse impact; and

(v) if multiple applications are joined or comparatively reviewed, the Department shall determine whether the individual impact of the establishment of each proposed service or the cumulative impact of the establishment of two or more proposed services would adversely impact an existing or approved service or any of the proposed services if established.

2. The Department may allow an exception to the need standard and adverse impact requirements in Ga. Comp. R. & Regs. r. 111-2-2-.22(3)(a)1. of this paragraph to remedy an atypical barrier to open heart surgery services based on cost, quality, financial access, or geographic accessibility. The types of atypical barriers outlined below are intended to be illustrative and not exclusive.

(i) An atypical barrier to services based on cost may include the failure of existing providers of open-heart surgical services to provide services at reasonable cost, as evidenced by the providers' charges and/or reimbursement being significantly higher (one or more standard deviations from the mean) than the charges and/or reimbursement for other providers in the state.

(ii) An atypical barrier to services based on quality may include the failure of existing providers of open-heart surgical services to provide services with outcomes generally in keeping with accepted clinical guidelines, peer review programs and comparable state rates for similar populations.

(iii) An atypical barrier to services based on financial access may include the repeated failure as exhibited by a documented pattern over two or more years prior to the submission of the application, of an existing provider or group of providers of open-heart surgical services within the community to provide services to indigent, charity and Medicaid patients.

(b) 1. An existing adult open heart surgery service seeking an expansion or expanded service due to a capital or equipment expenditure shall be approved if the applicant complies with the general considerations and policies of Ga. Comp. R. & Regs. r. 111-2-2-.09 and submits an application that demonstrates the applicant's compliance with or documents a plan and agreement to comply with the provisions of Ga. Comp. R. & Regs. r. 111-2-2-.22(3)(c),(d),(e),(g),(h) and (j).

2. Any existing service seeking an expansion or expanded service based on an increase in procedures pursuant to the definition in Ga. Comp. R. & Regs. r. 111-2-2-.22(2)(d) may request a determination from the Department that the service is fully in compliance with the provisions of Ga. Comp. R. & Regs. r. 111-2-2-.22(3)(c),(d),(e),(g),(h) and (j). The Department may issue a determination that the service is in compliance. If the Department issues such a determination, the service will not be required to apply for a Certificate of Need. If the Department determines that the service is not in compliance with the above referenced conditions, the service will be required to submit a Certificate of Need application.

(c) An applicant requesting a new or expanded adult open heart surgery service shall comply with the following three requirements:

1. Document that the open-heart surgery service shall have the capability to implement circulatory assist devices such as intra-aortic balloon assist and prolonged cardiopulmonary procedures, including at a minimum:

(i) repair and replacement of heart valves;

(ii) cardiac revascularization;

(iii) treatment of cardiac trauma;

(iv) repair of congenital defects in adults; and

(v) repair of acute aortic dissection.

2. Document that the applicant has available to the open-heart surgery service a full range of hospital-based diagnostic, ancillary, and support services, including the following organizational departments or services:

(i) medicine: cardiology, hematology, nephrology;

(ii) radiology: diagnostic, nuclear medicine;

(iii) surgery: cardiovascular, thoracic;

(iv) pathology: anatomic, clinical, blood bank, coagulation laboratory;

(v) anesthesiology: inhalation therapy; echocardiology in the operating room;

(vi) neurology;

(vii) special laboratories: cardiac catheter/angiographic;

(viii) clinical dietary;

(ix) cardiac surgical intensive care unit;

(x) pacemaker therapy;

(xi) cardiac rehabilitation services;

(xii) renal dialysis; and

(xiii) social services.

3. Document that the service shall be available for elective procedures as needed, at least eight hours per day, five days a week, and shall document the capability to rapidly mobilize surgical and medical support teams for emergency cases 24 hours per day, seven days per week, including a plan for utilizing this capability when needed to perform emergency procedures.

(d) An applicant for a new or expanded adult open heart surgery service shall:

1. submit a written plan to the Department which, when implemented, will ensure access to cardiac surgical services for all segments of the population in the documented and proposed service area of the facility and service. Such plan shall provide a detailed strategy to reach patients not currently served within the service area, ensure continuity of care for patients transferred between facilities and shall promote planning for a continuum of cardiac services within the service area;

2. propose a heart disease prevention program to be provided by the applicant or through formal referral agreements which, when implemented, shall include:

(i) Clinical intervention for cardiac patients (any inpatient or outpatient with a principal diagnosis of ischemic heart disease). These patients are at high risk for development of adverse cardiovascular events and the program shall provide for the following in a comprehensive, systematic way:

(I) Assessment of risk factors including lipid disorders, hypertension, diabetes, obesity, cigarette smoking, and sedentary lifestyle;

(II) Assessment of risk factors and referral for appropriate care in first-degree relatives;

(III) Assure risk management including modification of lipid disorders by diet/exercise/drugs, modification of blood pressure level by diet/exercise/drugs, control of blood glucose level by diet/exercise/drugs, dietary counseling aimed at reduced caloric and fat intake and appropriate weight management, smoking cessation, and exercise prescription. Patients should be referred to their primary care provider with documentation of treatments provided and actions recommended; and

(IV) Establishment and maintenance of systems to assist in tracking and follow-up to determine attendance at referred services and status of risk management.

(ii) Clinical intervention for non-cardiac patients (any inpatient or outpatient whose principal diagnosis is not ischemic heart disease). For these patients, the program shall encourage the following:

(I) Assessment of risk factors including, hypertension, hypercholesterolemia, smoking, obesity, sedentary lifestyle, and history of diabetes;

(II) Provision of appropriate counseling and referral for diagnostic evaluation, treatment and risk factor modification; and

(III) Establishment and maintenance of record systems to assist in documenting risk factors identified, referrals made, and other follow-up action taken.

(iii) The program shall assure access to cardiac rehabilitation services, provided either by the hospital itself or through formal referral agreements.

(iv) The program shall provide for annual support and participation in at least three professional education programs targeted to community-based health professionals, related to heart disease risk assessment, disease management in clinical settings, and case finding and referral strategies.

(v) Community based heart health promotion:

(I) The program shall provide for organization of or participation in a consortium of community-based organizations to complete an assessment of heart disease risk factors in the community as well as resources available to provide programs and services. The objective of this consortium is to mobilize and coordinate resources for target populations in the community; and

(II) Organization of or participation in at least one major community-based campaign each year related to major heart disease risk factors; and

3. propose a system of outcome monitoring and quality improvement and identify at least five clinical outcomes that the applicant proposes to monitor for performance on a regular basis.

(e) An applicant for a new or expanded adult open heart surgery service shall foster an environment which assures access to individuals unable to pay, regardless of payment source or circumstances, by the following:

1. providing a written policy regarding the provision of any services provided by or on behalf of the applicant to include disease prevention and intervention services outlined in Ga. Comp. R. & Regs. r. 111-2-2-.22(3)(d), that such services shall be provided regardless of race, age, sex, creed, religion, disability, or patient's ability to pay, and documentation or evidence that the applicant has a service history reflecting the principles of such a policy;

2. providing a written commitment that services for indigent and charity patients will be offered at a standard which meets or exceeds three percent (3%) of annual, adjusted gross revenues for the adult open heart surgery service, or the applicant may request that the Department allow the commitment for services to indigent and charity to patients to be applied to the entire facility;

3. providing a written commitment to accept any patient without regard to the patient's ability to pay, unless such patient is clinically inappropriate;

4. providing a written commitment to participate in the Medicaid, PeachCare and Medicare programs and to accept any Medicaid-, PeachCare- and/or Medicare-eligible patient for services unless such patient is clinically inappropriate;

5. providing a written commitment that the applicant, subject to good faith negotiations, will participate in any state health benefits insurance programs for which the service is deemed eligible; and

6. providing documentation of the past record of performance of the applicant, and any facility in Georgia owned or operated by the applicant's parent organization, of providing services to Medicare, Medicaid, and indigent and charity patients. The applicant's or its parent organization's failure to provide services at an acceptable level to Medicare, Medicaid and indigent and charity patients, and/or the failure to fulfill any previously made commitment to indigent and charity care may constitute sufficient justification to deny the application.

(f) In considering applications joined for review for new adult open heart surgery services, the Department may give favorable consideration to an applicant which historically has provided a higher annual percentage of unreimbursed services to indigent and charity patients and a higher annual percentage of services to Medicare and Medicaid patients.

(g) An applicant for a new or expanded adult open heart surgery service shall comply with the following three requirements:

1. Demonstrate the intent to achieve the optimal standards established by the American College of Surgeons and the Advisory Council for Cardiothoracic Surgery of the American College for evaluating the clinical and physical environments of cardiac surgical services and covering professional qualifications and responsibilities, staffing requirements, support services, physical plant, and equipment.

2. Document the availability of; or shall present a plan for recruiting, a qualified surgeon certified by the American Board of Thoracic Surgery with special qualifications in cardiac surgery.

3. Document a plan for obtaining a sufficient number of professional and technical staff; including cardiac intensive care nurses, for the size of the adult open heart surgery program proposed and document that the operating room team necessary for an adult open heart surgical procedure shall be available, including a cardiovascular surgeon who is board certified by the American Board of Thoracic Surgery; a second physician who is a cardiovascular or thoracic surgeon or surgical resident; a board-certified anesthesiologist trained in open heart surgery; a circulating nurse or scrub nurse (RN); an operating room technician or registered nurse trained in cardiac procedures; and one or two pump technicians, with one being certified and one qualified.

(h) An applicant for a new or expanded adult open heart surgery service shall provide documentation that the hospital is fully accredited by the Joint Commission or another nationally recognized health care accreditation body, and also shall provide sufficient documentation that the hospital has no history of significant licensure deficiencies and no history of conditional level Medicare and/or Medicaid certification deficiencies in the past three years and has no outstanding licensure and Medicare and/or Medicaid certification deficiencies.

(i) An applicant for a new adult open heart surgery service shall demonstrate that charges and/or reimbursement rates for the service shall compare favorably with charges and/or reimbursement rates in existing adult open heart surgery services in the state when adjusted for annual inflation. When determining the accuracy of an applicant's projected charges for adult open heart surgery procedures, the Department may compare the applicant's history of charges and/or reimbursement rates for cardiac catheterization procedures and other treatments and/or interventions for disorders of the circulatory system and for open heart procedures, if applicable, with such charges and/or reimbursement rates in other similar hospitals.

(j) An applicant for a new or expanded adult open heart surgery service must agree in writing to the following conditions:

1. establishment and maintenance of a system of continuity of care and coordination of service, as evidenced by regular and ongoing planning and quality improvement sessions with community health providers and advocacy programs; and

2. participation in a data reporting, quality improvement, outcome monitoring, and peer review system within the applicant hospital as well as a national, state or multi-hospital system which benchmarks outcomes based on national norms and which shall be named in the application and which provides for peer review between and among professionals practicing in facilities and programs other than the applicant hospital;

3. development of procedures to ensure that any surgeon authorized to perform open heart surgery for the hospital shall be required to perform at least 100 procedures on annual basis across his or her various practice settings, and shall be required to accept Medicaid or Medicare payment for services without discrimination;

4. commitment that charges for services shall be reasonable and comparable to other providers in the state and the service area;

5. provision of all required data and survey information to the Department as requested; and

6. commitment to act in good faith to fulfill all provisions and commitments documented in the application for a new or expanded service.

(k) The Department may revoke a Certificate of Need after notice to the holder of the certificate and a fair hearing pursuant to the Georgia Administrative Procedure Act for failure to comply with the defined scope, location, cost, service area, and person named in an application as approved by the Department and for the intentional provision of false information to the Department by an applicant in that applicant's application.

Cite as Ga. Comp. R. & Regs. R. 111-2-2-.22

AUTHORITY: O.C.G.A. §§ 31-2 et seq., 31-6 et seq.

HISTORY: Original Rule entitled "Specific Review Considerations for Adult Open Heart Surgery Services" adopted. F. Dec. 16, 2004; eff. Jan. 5, 2005.

Amended: F. Mar. 11, 2022; eff. Mar. 31, 2022.

Note: Rule 111-2-2-.22, the incorrect version of the Rule was inadvertently filed (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) and appeared on the Rules and Regulations website April 28, 2022 through March 12, 2023. The correct version, as promulgated and adopted on March 10, 2022, was updated on the Rules and Regulations website March 13, 2023, the original filed and effective dates (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) were retained, as requested by the Agency. Effective March 10, 2023.

Amended: F. Dec. 24, 2024; eff. Jan. 13, 2025.

111-2-2-.23 Specific Review Considerations for Pediatric Cardiac Catheterization and Open-Heart Surgery

(1) **Definitions.**

(a) "Authorized service" means a pediatric cardiac catheterization service or pediatric cardiac surgery service that is either existing or approved. An existing service is an authorized service that has become operational, and an approved service is an authorized service that has not become operational.

(b) "Capacity" means:

1. for a pediatric catheterization service:

(i) in considering applications for a new pediatric cardiac catheterization service, 750 procedures per year per authorized service regardless of the number of rooms used; or

(ii) in considering applications for expansion of an existing service, 750 pediatric cardiac catheterization procedures per dedicated room per year in the existing service (3 per day per room, 5 days per week, 50 weeks per year) and for each multipurpose room in the existing service, 750 procedures (special procedures and pediatric cardiac catheterization procedures) per year. If adult and pediatric cardiac catheterization are performed in the same room in a service seeking to expand, the capacity of the room shall be equivalent to 750 pediatric procedures with adult procedures performed in the room weighted in proportion to pediatric procedures as being 0.50 for each adult cardiac catheterization or special procedure, except for each adult coronary angioplasty, which shall be 0.75, in order to determine the service's use rate; or

2. for a pediatric cardiac surgery service, the number of pediatric cardiac surgery procedures which could be performed annually as reported by each hospital with an authorized service and based on survey and other reported

data. In determining capacity, a hospital must consider factors such as available operating rooms which can be used for pediatric cardiac surgery, cardiac surgical intensive care beds and other pediatric intensive care beds available for pediatric patients, general bed capacity, and any other factors which impact the determination.

(c) "Cardiac catheterization" means a medical diagnostic or therapeutic procedure during which a catheter is inserted into a vein or artery in the patient; subsequently, the free end of the catheter is manipulated by the physician to travel along the course of the blood vessel into the chambers or vessels of the heart. X-rays and an electronic image intensifier are used as aids in placing the catheter tip in the desired position. When the catheter is in place, the physician is able to perform various diagnostic studies and/or therapeutic procedures on the heart or its vessels.

(d) "Closed heart surgery" means an operation performed directly on the heart or its associated veins or arteries that does not require use of a heart and lung bypass machine (extracorporeal pump) to perform the work of the heart and lungs. Such operations often require the bypass machine to be available on standby for use if the surgery needs to be changed to open heart with the machine then performing the work of the heart and lungs.

(e) "Official State Component Plan" means the document related to specialized cardiovascular services developed by the Department, established by the Health Strategies Council, and adopted by the Board of Community Health.

(f) "Open heart surgery" means surgery performed directly on the heart or its associated veins or arteries during which a heart and lung bypass machine (extracorporeal pump) is used to perform the work of the heart and lungs.

(g) "Pediatric" refers to children 14 years of age and under.

(h) "Pediatric cardiac catheterization service" means an organized program which serves pediatric patients of a hospital which has a room or suite of rooms with the equipment, staff, and all support services required to perform angiographic, physiologic, and, as appropriate, therapeutic cardiac catheterization procedures. The pediatric cardiac catheterization service shall be located in a pediatric tertiary hospital. Procedures may be performed in a room dedicated to cardiac catheterization and/or in a special procedures or multipurpose room not exclusively used for cardiac catheterization.

(i) "Pediatric cardiac surgery" means an operation performed directly on a pediatric patient's heart or its associated veins or arteries, including open heart and closed heart surgery procedures but excluding surgical procedures for the closure of neonatal patent ductus arteriosus.

(j) "Pediatric cardiac surgery service" means an organized surgical program which serves pediatric inpatients of a hospital which has a suitable operating room or suite of operating rooms, equipment, staff, and all support services required to perform closed heart and open-heart operations for pediatric patients. The pediatric cardiac surgery service shall be located in a pediatric tertiary hospital.

(k) "Pediatric tertiary hospital" means a teaching center, specialty medical or large community hospital characterized by serving pediatric patients from a large region or the entire state with sophisticated technology and support services to provide highly specialized medical and surgical care for unusual and complex medical problems of pediatric patients.

(l) "Procedure" means a cardiac catheterization study or treatment or combination of studies and/or treatments performed in a single session on a single patient who appears for cardiac catheterization or a pediatric open or closed heart operation or combination of operations performed in a single session on a single patient who appears for pediatric cardiac surgery.

(m) "Service area", for pediatric cardiac catheterization and pediatric cardiac surgery means the State of Georgia.

(2) **Standards.**

(a) An applicant for new pediatric cardiac catheterization and pediatric cardiac surgery services must be a pediatric tertiary hospital. Due to the highly specialized nature of pediatric cardiac catheterization and pediatric cardiac

surgery services, applicants for these services must propose to provide both pediatric cardiac catheterization and pediatric cardiac surgery. Only those projects that meet all applicable standards for both services will be approved.

(b) New pediatric cardiac catheterization services shall be approved in the state only if each and all of the following conditions are met:

1. the combined use rate for all existing and approved pediatric cardiac catheterization services in the state has been at or above eighty percent (80%) of capacity for the past two (2) years as documented through surveys submitted to the Department;

2. an applicant must project that the proposed service will be operating at a minimum of one-hundred fifty (150) procedures per year within three (3) years of initiation of the service in order to maintain and strengthen skills. Such projection at a minimum shall include consideration of patient origin data and the use rate of existing services; and

3. an applicant must show that authorized pediatric cardiac catheterization services that would be impacted by the establishment of the new service are not predicted to perform less than the minimum quality level of one-hundred fifty (150) procedures annually as a result of the establishment of the new service.

(c) An application for expansion of an existing pediatric cardiac catheterization service shall be approved in the state only if the applicant's existing service has operated at a use rate of at least eighty percent (80%) of capacity for each of the past two (2) years and the applicant can project a minimum of one-hundred fifty (150) additional pediatric procedures per year within three (3) years of initiation of the service expansion and the applicant demonstrates compliance with or documents a plan and agreement to comply with the applicable provisions of Ga. Comp. R. & Regs. r. 111-2-2-.23(2)(f) through (o).

(d) New pediatric cardiac surgery services shall be approved in the state only if each and all of the following conditions are met:

1. the combined use rate of all authorized pediatric cardiac surgery services in the state has been at or above eighty percent of (80%) capacity for the past two (2) years as documented through surveys submitted to the Department;

2. an applicant must project that the proposed service will be operating at a minimum of one hundred (100) pediatric cardiac surgery procedures per year, of which at least fifty (50) are open heart operations, within three years of initiation of the service in order to maintain and strengthen skills. Such projections at a minimum shall include consideration of patient origin data and the use rate of existing services; and

3. an applicant must show that authorized pediatric cardiac surgery services which would be impacted by the establishment of the new services are not predicted to perform less than the minimum quality level of one hundred (100) procedures annually, of which at least fifty (50) are open heart operations, as a result of the establishment of the new service.

(e) An application for expansion of an existing pediatric cardiac surgery service which shall be approved in the state only if the applicant's existing service has operated at a use rate of at least eighty percent (80%) of capacity for each of the past two years and the applicant can project a minimum of one hundred 100 additional pediatric cardiac surgery procedures, of which at least fifty (50) are open heart operations, within three (3) years of initiation of the service expansion and the applicant demonstrates compliance with or documents a plan and agreement to comply with the applicable provisions of Ga. Comp. R. & Regs. r. 111-2-2-.23(2)(f) through (o).

(f) An applicant for a new or expanded pediatric cardiac catheterization service shall:

1. document that the applicant is a pediatric tertiary hospital, which serves pediatric patients from a large region or the entire state, with sophisticated technology and support services to provide highly specialized medical and surgical care for unusual and complex medical problems of pediatric patients; and

2. document that, in addition to the basic requirements described for adult cardiac catheterization services, the hospital shall have support services and equipment necessary for the diagnosis and treatment of infants and children as specified by the American College of Cardiology and the American Academy of Pediatrics.

(g) An applicant for a new or expanded pediatric cardiac surgery service shall:

1. document that the applicant is a pediatric tertiary hospital, which serves pediatric patients from a large region or the entire state, with sophisticated technology and support services to provide highly specialized medical and surgical care for unusual and complex medical problems of pediatric patients; and

2. document that, in addition to the basic requirements described for adult open-heart surgery, the hospital shall have support services and equipment necessary for surgery on infants and children as specified by the American College of Cardiology and the American Academy of Pediatrics, Guidelines for Pediatric Cardiology Diagnostic and Treatment Centers. This includes a complete pediatric cardiology unit, a neonatal intensive care unit, a pediatric intensive care unit, and a general pediatric unit with pediatric sub-specialists in hematology, endocrinology, pulmonary neurology, and radiology.

(h) An applicant for a new or expanded pediatric cardiac catheterization service or for a new or expanded pediatric cardiac surgery service shall document that the service shall be available for the performance of procedures as needed at least eight hours per day, five days per week, and shall document the capability to rapidly mobilize the surgical and medical support teams for emergency procedures 24 hours per day, seven days per week, including a plan for utilizing this capability when needed to perform emergency procedures.

(i) An applicant for a new or expanded pediatric cardiac catheterization service and/or pediatric cardiac surgery service shall:

1. submit a written plan to the Department which, when implemented, will ensure access to services for all segments of the population in the documented and proposed service area of the applicant. Such plan shall provide a detailed strategy to reach patients not currently served within the service area, ensure continuity of care for patients transferred between facilities and shall promote planning for a continuum of cardiac services within the service area;

2. propose a heart disease prevention and clinical intervention program to be provided by the applicant or through formal referral agreements which, when implemented, shall include:

(i) A clinical intervention program for all patients that shall provide for the following in a comprehensive, systematic way:

(I) Assessment of risk factors including lipid disorders, hypertension, diabetes, obesity, cigarette smoking, and sedentary lifestyle;

(II) Assessment of risk factors and referral for appropriate care in first-degree relatives; and

(III) Assure risk management including modification of lipid disorders by diet/exercise/drugs, modification of blood pressure level by diet/exercise/drugs, control of blood glucose level by diet/exercise/drugs, dietary counseling aimed at reduced caloric and fat intake and appropriate weight management, smoking cessation, and exercise prescription. Patients should be referred to their primary care provider with documentation of treatments provided and actions recommended including preventive therapies.

(ii) The program shall provide for annual support and participation in at least three professional education programs targeted to community-based health professionals, related to heart disease risk assessment, diagnostic procedures, disease management in clinical settings, and case finding and referral strategies.

(iii) Community based heart health promotion:

(I) The program shall provide for organization of or participation in a consortium of community-based organizations to complete an assessment of heart disease risk factors in the community as well as resources available to provide

programs and services. The objective of this consortium is to mobilize and coordinate resources to target at-risk populations in the community; and

(II) Organization of or participation in at least one major community-based campaign each year related to major heart disease risk factors; and

3. propose a system of outcome monitoring and quality improvement and identify at least five (5) clinical outcomes that the applicant proposes to monitor for performance on a regular basis.

(j) An applicant for new or expanded pediatric cardiac catheterization and pediatric cardiac surgery services shall foster an environment which assures access to individuals unable to pay, regardless of payment source or circumstances, by the following:

1. providing a written policy regarding the provision of any services provided by or on behalf of the applicant regardless of race, age, sex, creed, religion, disability or patient's ability to pay, and documentation or evidence that the applicant has a service history reflecting the principles of such a policy;

2. providing a written commitment that services for indigent and charity patients will be offered at a standard which meets or exceeds three percent (3%) of annual, adjusted gross revenues for the pediatric cardiac catheterization and surgical services, or the applicant may request that the Department consider allowing the commitment for services to indigent and charity to patients to be applied to the entire facility;

3. providing a written commitment to accept any patient within the facility's service area, without regard to the patient's ability to pay, unless such patient is clinically inappropriate;

4. providing a written commitment to participate in the Medicaid and PeachCare programs and to accept any Medicaid- and/or PeachCare-eligible patient for services unless such patient is clinically inappropriate;

5. providing a written commitment that the applicant, subject to good faith negotiations, will participate in any state health benefits insurance programs for which the service is deemed eligible; and

6. providing documentation of the past record of performance of the applicant, and any facility in Georgia owned or operated by the applicant's parent organization, of providing services to Medicare, Medicaid, and indigent and charity patients. The applicant's or its parent organization's failure to provide services at an acceptable level to Medicare, Medicaid and indigent and charity patients, and/or the failure to fulfill any previously made commitment to indigent and charity care may constitute sufficient justification to deny the application.

(k) An applicant for a new or expanded pediatric cardiac catheterization service shall:

1. demonstrate the intent to achieve the optimal standards established by the American Academy of Pediatrics, Guidelines for Pediatric Cardiology Diagnostic and Treatment Centers for evaluating the clinical and physical environments of cardiac catheterization services and covering professional qualifications and responsibilities, staffing requirements, supporting services, physical plant, and equipment;

2. document the availability of, or shall present a plan for recruiting, a qualified service director who is a physician, board-certified in pediatrics, with subspecialty training and board eligibility in pediatric cardiology and who is competent to perform physiologic and angiographic procedures or both; and

3. document a plan for obtaining a sufficient number of professional and technical staff for the size of the pediatric cardiac catheterization service proposed, including a pediatric nurse, radiologic technologist, cardiopulmonary technician, and darkroom technician and document that the staff required for most procedures shall be available, including two physicians, one nurse, and two technicians, with the nurse and technicians cross trained to cover technical responsibility of the monitoring and recording technicians.

(l) An applicant for a new or expanded pediatric cardiac surgery service shall comply with the following three requirements:

1. Demonstrate the intent to achieve the optimal standards established by the Advisory Council for Cardiothoracic Surgery of the American College of Surgeons, and the American Academy of Pediatrics, Guidelines for Pediatric Cardiology Diagnostic and Treatment Centers for evaluating the clinical and physical environments of cardiac surgical services and covering professional qualifications and responsibilities, staffing requirements, supporting services, physical plant, and equipment.

2. Document the availability of, or shall present a plan for recruiting, a qualified pediatric cardiac surgery director who is a pediatric cardiovascular surgeon, board-certified in thoracic surgery, with special emphasis and experience in surgery for congenital heart disease.

3. Document a plan for obtaining a sufficient number of professional and technical staff, including pediatric cardiac intensive care nurses, for the size of the pediatric cardiac surgery service proposed, including at least two board-qualified cardiac surgeons on the staff of the hospital and a cardiovascular surgical team which includes a neonatologist, a pediatric anesthesiologist, a pediatric radiologist, a pediatric cardiologist, a nurse clinician, and backup of medical social services.

(m) An applicant for new or expanded pediatric cardiac catheterization and pediatric cardiac surgery services shall provide documentation that the hospital is fully accredited by the Joint Commission or another nationally recognized health care accreditation body and also shall provide sufficient documentation that the hospital has no history of significant licensure deficiencies and no history of conditional level Medicare and Medicaid certification deficiencies in the past three (3) years and has no outstanding licensure and Medicare and Medicaid certification deficiencies.

(n) An applicant for new or expanded pediatric cardiac catheterization and pediatric cardiac surgery services shall demonstrate that the applicant's charges and/or reimbursement for pediatric cardiac catheterization and pediatric cardiac surgery services shall compare favorably with charges and/or reimbursement in existing pediatric cardiac catheterization and pediatric cardiac surgery services in the state, when adjusted for annual inflation.

(o) An applicant for new or expanded pediatric cardiac catheterization and/or pediatric cardiac surgery services must agree in writing to the following conditions:

1. establishment and maintenance of a system of continuity of care and coordination of service, as evidenced by regular and ongoing planning and quality improvement sessions with community health providers and advocacy programs;

2. participation in a data reporting, quality improvement, outcome monitoring, and peer review system within the applicant hospital as well as a national, state or multi-hospital system which benchmarks outcomes based on national norms and which shall be named in the application and which provides for peer review between and among professionals practicing in facilities and programs other than the applicant hospital;

3. development of procedures to ensure that any surgeon or cardiologists authorized to perform pediatric cardiac services for the hospital shall be required to accept Medicaid and PeachCare payment for services without discrimination;

4. commitment that charges for services shall be reasonable and comparable to other providers in the state and the service area;

5. provision of all required data and survey information to the Department as requested; and

6. commitment to act in good faith to fulfill all provisions and commitments documented in the application for a new or expanded service.

(p) The Department may revoke a Certificate of Need after notice to the holder of the certificate and a fair hearing pursuant to the Georgia Administrative Procedure Act for failure to comply with the defined scope, location, cost,

service area, and person named in an application as approved by the Department and for the intentional provision of false information to the Department by an applicant in that applicant's application.

Cite as Ga. Comp. R. & Regs. R. 111-2-2-.23

AUTHORITY: O.C.G.A. §§ 31-2 et seq., 31-6 et seq.

HISTORY: Original Rule entitled "Specific Review Considerations for Pediatric Cardiac Catheterization and Open Heart Surgery" adopted. F. Dec. 16, 2004; eff. Jan. 5, 2005.

Amended: New title, "Specific Review Considerations for Pediatric Cardiac Catheterization and Open-Heart Surgery." F. Mar. 11, 2022; eff. Mar. 31, 2022.

Note: Rule 111-2-2-.23, the incorrect version of the Rule was inadvertently filed (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) and appeared on the Rules and Regulations website April 28, 2022 through March 12, 2023. The correct version, as promulgated and adopted on March 10, 2022, was updated on the Rules and Regulations website March 13, 2023, the original filed and effective dates (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) were retained, as requested by the Agency. Effective March 10, 2023.

Amended: F. Dec. 24, 2024; eff. Jan. 13, 2025.

111-2-2-.24 Specific Review Considerations for Perinatal Services

(1) **Applicability.** For Certificate of Need purposes, Basic Perinatal Services, Neonatal Intermediate Care Services (Specialty/Level II), and Neonatal Intensive Care Services (Subspecialty/Level III) shall be defined as new institutional health services.

(2) **Definitions.**

(a) "Basic Perinatal Services (Level I)" means providing basic inpatient care for pregnant women and newborns without complications; managing perinatal emergencies; consulting with and referring to specialty and subspecialty hospitals; identifying high-risk pregnancies; providing follow-up care for new mothers and infants; and providing public/community education on perinatal health.

(b) "Most recent year" means the most current twelve-month period within a month of the date of completion of an application or within a month of the date of completion of the first application when applications are joined. If the Department has conducted a survey within six (6) months of the date of completion of the first application when applications are joined, the Department may consider the most recent year to be the report period covered by the prior survey.

(c) "Neonatal Intensive Care Service (Subspecialty/Level III)" means a hospital service that meets the requirements for a Neonatal Newborn Care Service and meets the definition of a Subspecialty Perinatal Hospital Service as contained in the most recent edition of the Recommended Guidelines for Perinatal Care in Georgia, as published by the Council on Maternal & Infant Health.

(d) "Neonatal Intermediate Care Service (Specialty/Level II)" means a hospital service that meets the requirements for a Neonatal Newborn Care Service and meets the definition of a Specialty Perinatal Hospital Service as contained in the most recent edition of the Recommended Guidelines for Perinatal Care in Georgia, as published by the Council on Maternal & Infant Health.

(e) "Neonatal Newborn Care Service (Basic/Level I)" means a hospital service which meets the minimum standards contained in Chapter 111-8-40 of the Rules of the Healthcare Facility Regulation Division, such chapter being entitled "Newborn Service. Amended."

(f) "Obstetric Service" means a hospital service that meets the minimum standards contained in Chapter 111-8-40 of the Rules of the Healthcare Facility Regulation Division, such chapter being entitled "Maternity and Obstetric Service. Amended."

(g) "Official Inventory" means the inventory for each hospital of Basic Perinatal Service and Neonatal Intermediate and Intensive Care Service beds maintained by the Department based upon responses to the Annual Hospital Questionnaire (AHQ) and/or its Perinatal Addendum and any Certificate of Need approved beds after the period covered by the AHQ and with the following provisions:

1. the official inventory for each facility will remain unchanged for the year following the last day of the report period on each hospital's completed AHQ and/or its Perinatal Addendum unless the Department approves a change of bed capacity through the Certificate of Need process; and

2. the capacity of existing freestanding birthing centers will not be counted as part of the official inventory of available services when computing unmet numerical need for Basic Perinatal Services in a planning area.

(h) "Perinatal physician training program" refers to obstetrics and gynecology, family practice and pediatrics disciplines.

(i) "Planning Areas" means fixed sub-state regions for reviewable services as defined in the State Health Component Plan for Perinatal Services.

(j) "Regional Perinatal Center" (RPC) means those hospitals designated by the Department of Public Health to serve a defined geographic area to provide the highest level of comprehensive perinatal health care services for pregnant women, their fetuses and neonates of all risk categories. The RPC accepts patients in need of these services from its region regardless of race, creed, religion, ability to pay, or funding source. The RPC provides consultation and transport for patients requiring special services; coordination and assurance of follow-up medical care for maternal and neonatal patients requiring special care; educational support to ensure quality care in institutions involved in perinatal health care; compilation, analysis, and evaluation of perinatal data from the center and referring hospitals and coordination of perinatal health care within the region.

(k) "Urban County" means a county with a projected population for the horizon year of 100,000 or more and a population density for that year of 200 or more people per square mile. All other counties are "rural."

(3) **Standards.**

(a) The need for a new or expanded Obstetric Service, Neonatal Intermediate Care Service and Neonatal Intensive Care Service shall be determined through application of a Numerical Need method and an assessment of the aggregate occupancy rate of existing services.

1. The numerical need for a new or expanded Obstetric Service in a planning area shall be determined through the application of a demand-based forecasting model. The model is outlined in the steps listed below, and all data elements relate to each planning area:

(i) Calculate the average obstetric utilization rate (UR) by dividing the obstetric days (OBDays) reported by hospitals for the two most recent 12-month reporting periods of the Annual Hospital Questionnaire and/or its Perinatal Addendum by the female population ages 15 to 44 (FP) for the corresponding years:

$$UR = \frac{OBDays_1 + OBDays_2}{FP_{YR}{}^1 + \mathrm{FP}_{\mathrm{YR}}{}^2}$$

(ii) Multiply the obstetric utilization rate by the projected female population ages 15 to 44 (PFP) for the horizon year to determine the number of projected obstetric days (POBDays):

$$POBDays = UR_x PFP$$

(iii) Calculate the number of projected obstetric beds (POBBeds) by dividing the number of projected obstetric days by 273.75 (the result of 365 days multiplied by the occupancy standard of seventy-five percent (75%)) with any fraction rounded up to a whole bed:

$$POBBeds = \frac{POBDays}{273.75}$$

(iv) Determine the net numerical unmet need (UN) for new or additional obstetric beds by subtracting the number of beds in the Official Inventory (OI) from the number of projected obstetric beds:

$$UN = POBBeds - OI$$

2. The numerical need for a new or expanded Level II Neonatal Intermediate Care Service in a planning area shall be determined through the application of a demand-based forecasting model. The model is outlined in the steps below, and all data elements relate to each planning area:

(i) Calculate the average resident live-birth rate (ABR) using the sum of the resident live births (RB) for the three most recent calendar years available from the Department of Public Health or other official source divided by the corresponding years' female population ages 15 to 44 (FP):

$$ABR = \frac{RB_1 + RB_2 + RB_3}{FP_{YR}^{1} + FP_{YR}^{2} + FP_{YR}^{3}}$$

(ii) Determine the number of projected resident live births (PRB) for the horizon year by multiplying the average resident live-birth rate by the estimated female population ages 15 to 44 (PFP) for the horizon year:

$$PRB = ABRxPFP$$

(iii) Calculate the projected number of neonatal intermediate care patient days (PN2Days) in the horizon year by multiplying the average number of patient days (N2Days) in neonatal intermediate care beds reported by hospitals for the two most recent 12-month reporting periods of the Annual Hospital Questionnaire and/or its Perinatal Addendum by the number of projected resident live births divided by the actual number of resident live births (RB) available from the Department of Public Health or other official source for the most recent calendar year:

$$PN2Days = N2Daysx \frac{PRB}{RB}$$

(iv) Project neonatal intermediate care bed need (N2Beds) into the horizon year by dividing the projected patient days for neonatal intermediate care services by 292 (the result of 365 days multiplied by the occupancy rate of eighty percent (80%)) with any fraction rounded up to a whole bed:

$$N2Beds = PN2\frac{Days}{292}$$

(v) To determine unmet numerical bed need (UN), subtract the official inventory (OI) from the projected neonatal intermediate care bed need:

$$UN = N2Beds - OI$$

3. The numerical need for a new or expanded Level III Neonatal Intensive Care Service in a planning area shall be determined through the application of a demand-based forecasting model. The model is outlined in the steps below, and all data elements relate to each planning area:

(i) Calculate the average resident live-birth rate (ABR) using the sum of the resident live births (RB) for the three most recent calendar years available from the Department of Public Health or other official source divided by the corresponding years' female population ages 15 to 44 (FP):

$$ABR = \frac{RB_1+RB_2+RB_3}{FP_{YR}{}^{1}+FP_{YR}{}^{2}+FB_{YR}{}^{3}}$$

(ii) Determine the number of projected resident live births (PRB) for the horizon year by multiplying the average resident live-birth rate by the estimated female population ages 15 to 44 (PFP) for the horizon year:

$$PRB = ABRxPFP$$

(iii) Calculate the projected number of neonatal intensive care patient days (PN2Days) in the horizon year by multiplying the average number of patient days (N2Days) in neonatal intensive care beds reported by hospitals for the two most recent 12-month reporting periods of the Annual Hospital Questionnaire and/or its Perinatal Addendum by the number of projected resident live births divided by the actual number of resident live births (RB) available from the Department of Public Health or other official source for the most recent calendar year:

$$PN2Days - N2Daysx \frac{PRB}{RB}$$

(iv) Project neonatal intensive care bed need (N2Beds) into the horizon year by dividing the projected patient days for neonatal intensive care services by 292 (the result of 365 days multiplied by the occupancy rate of eighty percent (80)) with any fraction rounded up to a whole bed:

$$N2Beds = PN2\frac{Days}{292}$$

(v) To determine unmet numerical bed need (UN), subtract the official inventory (OI) from the projected neonatal intensive care bed need:

$$UN - N2Beds - OI$$

4. Prior to approval of a new or expanded Obstetric Service, Neonatal Intermediate Care Service or Neonatal Intensive Care Service in a planning area, the aggregate occupancy rate for all similar services in that planning area shall equal or exceed seventy-five percent (75%) for an Obstetric Service and eighty percent (80%) for a Neonatal Intermediate Care Service or Neonatal Intensive Care Service for each of the two (2) most recent years.

(b) Exceptions to need may be considered by the Department as follows:

1. To provide that an applicant for new basic perinatal services shall not be subject to the need standard of section (3)(a)1. or the aggregate occupancy standard of section (3)(a)4. of this Rule if:

(i) The proposed new service would be located in a county where only one civilian health care facility or health system is currently providing basic perinatal services; and

(ii) There are not at least three (3) different health care facilities in a contiguous county providing basic perinatal services.

2. To allow expansion of an existing Level I or Level II or Level III service, if the actual utilization of that service has exceeded 80 percent occupancy over the most recent two years; or

3. To remedy an atypical barrier to perinatal services based on cost, quality, financial access, or geographic accessibility. An applicant seeking such an exception shall have the burden of proving to the Department that the cost, quality, financial access, or geographic accessibility of current services, or some combination thereof, result in a barrier to services that should typically be available to citizens in the planning area and/or the communities under review. In approving an applicant through the exception process, the Department shall document the bases for granting the exception and the barrier or barriers that the successful applicant would be expected to remedy.

(c) An applicant for a new or expanded Basic Perinatal Service or Neonatal Intermediate Care or Neonatal Intensive Care Service shall document the impact on existing and approved services in the planning area with the goal of minimizing adverse impact on the delivery system and as follows:

1. An existing perinatal physician training program shall not be adversely impacted by the establishment of a new or expanded perinatal service to the extent that the existing service could not sustain a sufficient number and variety of patients to maintain an appropriate number of providers and provider competencies and the training program's accreditation and funding status;

2. An existing nurse midwifery training program shall not be adversely impacted by the establishment of a new or expanded perinatal service to the extent that the existing service could not sustain an appropriate number of providers and provider competencies to sustain a sufficient number and variety of patients to maintain the training program's accreditation; and

3. An existing regional perinatal center shall not be adversely impacted by the establishment of a new or expanded perinatal service to the extent that the existing service could not sustain a sufficient volume and case mix of patients including both low risk and high risk deliveries to maintain its regional center status.

(d) An applicant for a new or expanded Basic Perinatal Service or Neonatal Intermediate Care Service or Neonatal Intensive Care Service shall foster an environment that assures access to services to individuals unable to pay and regardless of payment source or circumstances by the following:

1. providing evidence of written administrative policies and directives related to the provision of services on a nondiscriminatory basis;

2. providing a written commitment that unreimbursed services for indigent and charity patients will be offered at a standard which meets or exceeds three percent (3%) of annual gross revenues for the entire facility after Medicare and Medicaid contractual adjustments and bad debt have been deducted;

3. providing a written commitment to participate in the Medicaid program;

4. providing a written commitment to participate in any other public reimbursement programs available for perinatal services for which the hospital is eligible; and

5. providing documentation of the demonstrated performance of the applicant, and any facility in Georgia owned or operated by the applicant's parent organization, of providing services to individuals unable to pay based on the past

record of service to Medicare, Medicaid, and indigent and charity patients, including the level of unreimbursed indigent and charity care.

(e) The desired minimum bed size for a Basic Perinatal Service, Neonatal Intermediate Care Service or Neonatal Intensive Care Service is as follows:

1. At least four beds for a new Basic Perinatal, Neonatal Intermediate Care, or Neonatal Intensive Care Service.

2. The Department may grant an exception to these standards when the Department determines that unusual circumstances exist that justify such action.

(f) An applicant for a new or expanded Basic Perinatal Service or Neonatal Intermediate Care Service or Neonatal Intensive Care Service shall provide evidence of ability to meet the following continuity of care standards:

1. Document a plan whereby the hospital and its medical staff agree to provide a full array of perinatal services to the community, including but not limited to community education and outreach, prenatal, intrapartum, postpartum, newborn, and postnatal services; and

2. As appropriate, provide a formal transfer agreement with at least one hospital within reasonable proximity that provides services to high-risk mothers and babies.

(g) An applicant for a new or expanded Basic Perinatal Service or Neonatal Intermediate Care Service or Neonatal Intensive Care Service shall provide evidence of the ability to meet the following quality of care standards:

1. evidence that qualified personnel will be available to ensure a quality service to meet licensure, certification and/or accreditation requirements;

2. written policies and procedures for utilization review consistent with state, federal and other accreditation standards. This review shall include assessment of medical necessity for the service, quality of patient care, and rates of utilization;

3. written statement of its intent to comply with all appropriate licensure requirements and operational procedures required by the Healthcare Facility Regulation Division; and

4. evidence that there are no uncorrected operational standards in any existing Georgia hospitals owned and/or operated by the applicant or the applicant's parent organization. Plans of correction in the applying facility must be included in the application.

(h) An applicant for a new or expanded Basic Perinatal Service or Neonatal Intermediate Care Service or Neonatal Intensive Care Service shall document an agreement to provide Department requested information and statistical data related to the operation and provision of services and to report that data to the Department in the time frame and format requested by the Department.

Cite as Ga. Comp. R. & Regs. R. 111-2-2-.24

AUTHORITY: O.C.G.A. §§ 31-2 *et seq*., 31-6 *et seq*.

HISTORY: Original Rule entitled "Specific Review Considerations for Perinatal Services" adopted. F. Dec. 16, 2004; eff. Jan. 5, 2005.

Amended: F. Sept. 11, 2008; eff. Oct. 1, 2008.

Amended: F. Mar. 11, 2022; eff. Mar. 31, 2022.

Note: Rule 111-2-2-.24, the incorrect version of the Rule was inadvertently filed (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) and appeared on the Rules and Regulations website April 28, 2022 through March 12, 2023. The correct

version, as promulgated and adopted on March 10, 2022, was updated on the Rules and Regulations website March 13, 2023, the original filed and effective dates (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) were retained, as requested by the Agency. Effective March 10, 2023.

Amended: F. Dec. 24, 2024; eff. Jan. 13, 2025.

111-2-2-.25 [Repealed]

Cite as Ga. Comp. R. & Regs. R. 111-2-2-.25

AUTHORITY: O.C.G.A. §§ 31-2 *et seq*., 31-6 *et seq*.

HISTORY: Original Rule entitled "Specific Review Considerations for Freestanding Birthing Centers" adopted. F. Dec. 16, 2004; eff. Jan. 5, 2005.

Amended: F. Mar. 11, 2022; eff. Mar. 31, 2022.

Note: Rule 111-2-2-.25, the incorrect version of the Rule was inadvertently filed (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) and appeared on the Rules and Regulations website April 28, 2022 through March 12, 2023. The correct version, as promulgated and adopted on March 10, 2022, was updated on the Rules and Regulations website March 13, 2023, the original filed and effective dates (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) were retained, as requested by the Agency. Effective March 10, 2023.

Repealed: F. Dec. 24, 2024; eff. Jan. 13, 2025.

111-2-2-.26 [Repealed]

Cite as Ga. Comp. R. & Regs. R. 111-2-2-.26

AUTHORITY: O.C.G.A. §§ 31-2 *et seq*., 31-6 *et seq*.

HISTORY: Original Rule entitled "Specific Review Considerations for Psychiatric and Substance Abuse Inpatient Programs" adopted. F. Dec. 16, 2004; eff. Jan. 5, 2005.

Amended: F. Nov. 22, 2006; eff. Dec. 12, 2006.

Amended: F. Mar. 11, 2022; eff. Mar. 31, 2022.

Note: Rule 111-2-2-.26, the incorrect version of the Rule was inadvertently filed (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) and appeared on the Rules and Regulations website April 28, 2022 through March 12, 2023. The correct version, as promulgated and adopted on March 10, 2022, was updated on the Rules and Regulations website March 13, 2023, the original filed and effective dates (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) were retained, as requested by the Agency. Effective March 10, 2023.

Repealed: F. Dec. 24, 2024; eff. Jan. 13, 2025.

111-2-2-.34 Specific Review Considerations for Traumatic Brain Injury Facilities

(1) **Applicability.** The following Rules apply to Traumatic Brain Injury Facilities defined herein as providing transitional living programs and/or lifelong living programs.

(a) A Certificate of Need shall be required prior to the establishment of a new or the expansion of an existing Transitional Living Program, if not exempt as provided by O.C.G.A. § 31-6-47(a)(25) and Ga. Comp. R. & Regs. r. 111-2-2-.03(28). An application for Certificate of Need for a new or expanded Transitional Living Program shall be reviewed under the General Review Considerations of Ga. Comp. R. & Regs. r. 111-2-2-.09 and the service-specific review considerations of this Rule.

(b) A Certificate of Need shall be required prior to the establishment of a new or the expansion of an existing Life Long Living Program, if not exempt as provided by O.C.G.A. § 31-6-47(a)(25) and Ga. Comp. R. & Regs. r. 111-2-2-.03(28). An application for Certificate of Need for a new or expanded Life Long Living Program shall be reviewed under the General Review Considerations of Ga. Comp. R. & Regs. r. 111-2-2-.09 and the service-specific review considerations of this Rule.

(2) **Definitions.**

(a) "Expansion" or "Expanded Service" means increasing the number of beds in an existing Traumatic Brain Injury Facility or program; or an existing Traumatic Brain Injury Facility or program; or an existing Traumatic Brain Injury Facility or program which seeks to add a program which it currently does not offer.

(b) "Life Long Living Program" means such treatment and rehabilitative care as shall be delivered to traumatic brain injury clients who have been discharged from a more intense level of rehabilitation, but who cannot live at home independently, and who require on-going lifetime support. Such clients are medically stable, may have special needs, but need less than 24 hour per day medical support.

(c) "New" means a facility that has not operated as a Traumatic Brain Injury Facility in the previous twelve (12) months. For purposes of these Rules, an existing Traumatic Brain Injury Facility or program which proposes to be relocated to a location more than three miles from its present location shall be considered "new".

(d) "Official State Health Component Plan" means the document related to Traumatic Brain Injury Facilities developed by the Department, established by the Georgia State Health Strategies Council and signed by the Governor of Georgia.

(e) "Planning Region" means one of the twelve state service delivery regions established by O.C.G.A. § 50-4-7.

(f) "Transitional Living Program" means such treatment and rehabilitative care as shall be delivered to traumatic brain injury clients who require education and training for independent living with a focus on compensation for skills which cannot be restored. Such care prepares clients for maximum independence, teaches necessary skills for community interaction, works with clients on pre-vocational and vocational training and stresses cognitive, speech, and behavioral therapies structured to the individual needs of clients. Such clients are medically stable, may have special needs, but need less than twenty-four (24) hour per day medical support.

(g) "Traumatic Brain Injury" means a traumatic insult to the brain and its related parts resulting in organic damage thereto that may cause physical, intellectual, emotional, social, or vocational changes in a person. It shall also be recognized that a person having a traumatic brain injury may have organic damage or physical or social disorders but shall not be considered mentally ill.

(h) "Traumatic Brain Injury Facility" means a building or place which is devoted to the provision of residential treatment and rehabilitative care in a transitional living program or a life long living program for periods continuing for twenty-four (24) hours or longer for persons who have traumatic brain injury. Such a facility is not classified by the Healthcare Facility Regulation Division as a hospital, nursing home, intermediate care facility or personal care home.

(3) **Standards.**

(a) An application for a new or expanded Traumatic Brain Injury Facility or program shall provide sufficient documentation of the need for such a program in the Planning Region. In the case of an application for an expanded program, the applicant shall justify the need for the expansion by, at a minimum, documenting that the expansion

program has achieved an occupancy rate of eighty percent (80%) or more for the most recent twelve (12) months prior to submitting application.

(b) An applicant for a new or expanded Traumatic Brain Injury Facility or program shall document that the establishment or expansion of its Facility or program will not have an adverse impact on existing and approved programs of the same type in its Planning Region. An applicant for a new or expanded Traumatic Brain Injury Facility or program shall have an adverse impact on existing and approved facilities or programs of the same type if it will:

1. decrease annual utilization of an existing facility or program, whose current utilization is at or above eighty-five percent (85%), to a projected annual utilization of less than seventy-five percent (75%) within the first twelve (12) months following the acceptance of the applicant's first patient; or

2. decrease annual utilization of an existing facility or program, whose current utilization is below eighty-five percent (85%), by ten percent (10%) over the twelve (12) months following the acceptance of the applicant's first patient.

The applicant shall provide evidence of projected impact by taking into account existing planning region market share of facilities or programs of the same type and future population growth or by providing sufficient evidence that the current population is underserved by the existing Traumatic Brain Injury facility or program of the same type within the planning region.

(c) The Department may grant an exception to the need methodologies of Ga. Comp. R. & Regs. r. 111-2-2-.34(3)(a) and (3)(b) to remedy an atypical barrier to the services of a Traumatic Brain Injury Facility or program based on cost, quality, financial access, or geographic accessibility.

(d) Minimum bed size for a Traumatic Brain Injury Facility or program is six beds; A Life Long Living Program may not exceed thirty beds, except that an applicant for a new or expanded Life Long Living Program may be approved for total beds to exceed thirty (30) beds only if the applicant provides documentation satisfactory to the Department that the program design, including staffing patterns and the physical plant, are such as to promote services which are of high quality, are cost-effective and are consistent with client needs.

(e) An applicant for a new or expanded Traumatic Brain Injury Facility shall demonstrate the intent to meet the standards of the Commission on Accreditation of Rehabilitation Facilities (CARF) which apply to post acute brain injury programs and residential services within twenty-four (24) months of accepting its first patient. An applicant for an expanded Traumatic Brain Injury Facility or program shall be CARF-certified as of the date of its application and shall furnish proof of the certification as a part of the Certificate of Need application process.

(f) An applicant for a new or expanded Traumatic Brain Injury Facility shall demonstrate the intent to meet the licensure Rules of the Healthcare Facility Regulation Division for such facilities. An applicant for an expanded Traumatic Brain Injury Facility or program shall demonstrate a lack of uncorrected deficiencies as documented by letter from the Healthcare Facility Regulation Division.

(g) An applicant for a new or expanded Traumatic Brain Injury Facility shall have written policies and procedures for utilization review. Such review shall consider the rehabilitation necessity for the service, quality of client care, rates of utilization and other considerations generally accepted as appropriate for review.

(h) An applicant for a new or expanded Traumatic Brain Injury Facility shall document the existence of referral arrangements, including transfer agreements, with an acute care hospital within the planning region to provide emergency medical treatment to any patient who requires such care. If the nearest acute-care hospital is in an adjacent planning region, the applicant may document the existence of transfer agreements with that hospital in lieu of such agreements with a hospital located within the planning region.

(i) An applicant for a new or expanded Traumatic Brain Injury Facility shall document that the Facility will be financially accessible by:

1. providing sufficient documentation that un-reimbursed services for indigent and charity patients in a new or expanded Facility shall be offered at a standard which meets or exceeds three percent (3%) of annual gross revenues for the Facility after provisions have been made for bad debt and Medicaid/Medicare contractual adjustments have been deducted. If an applicant, or any facility owned or operated by the applicant's parent organization, received a Certificate of Need for a Traumatic Brain Injury Facility and the Certificate of Need included an expectation that a certain level of un-reimbursed indigent and/or charity care would be provided in the Facility(ies), the applicant shall provide sufficient documentation of the Facility's provision of such care. An applicant's history, or the history of any facility owned or operated by the applicant's parent organization, of not following through with a Certificate of Need expectation of providing indigent and/or charity care at or above the level agreed to will constitute sufficient justification to deny an application; and

2. agreeing to participate in the Medicare and Medicaid programs, whenever these programs are available to the Facility.

(j) **Reserved**.

(k) An applicant for a new or expanded Traumatic Brain Injury Facility shall document an agreement to provide the Department requested information and statistical data related to the operation of such a Facility and to report that information and statistical data to the Department on a yearly basis, and as needed, in a format requested by the Department and in a timely manner.

Cite as Ga. Comp. R. & Regs. R. 111-2-2-.34

AUTHORITY: O.C.G.A. §§ 31-2 et seq., 31-6 et seq.

HISTORY: Original Rule entitled "Specific Review Considerations for Traumatic Brain Injury Facilities" adopted. F. Dec. 16, 2004; eff. Jan. 5, 2005.

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Note: Rule 111-2-2-.34, the incorrect version of the Rule was inadvertently filed (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) and appeared on the Rules and Regulations website April 28, 2022 through March 12, 2023. The correct version, as promulgated and adopted on March 10, 2022, was updated on the Rules and Regulations website March 13, 2023, the original filed and effective dates (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) were retained, as requested by the Agency. Effective March 10, 2023.

Amended: F. Dec. 24, 2024; eff. Jan. 13, 2025.

111-2-2-.35 Specific Review Considerations for Comprehensive Inpatient Physical Rehabilitation Services

(1) **Applicability.**

(a) A Certificate of Need shall be required prior to the establishment of a new or the expansion of an existing Comprehensive Inpatient Physical Rehabilitation Adult Program. An application for Certificate of Need for a new or expanded Comprehensive Inpatient Physical Rehabilitation Adult Program shall be reviewed under the General Review Considerations of Ga. Comp. R. & Regs. r. 111-2-2-.09 and the service-specific review considerations of this Rule.

(b) A Certificate of Need shall be required prior to the establishment of a new or the expansion of an existing Comprehensive Inpatient Physical Rehabilitation Pediatric Program. An application for Certificate of Need for a new or expanded Comprehensive Inpatient Physical Rehabilitation Pediatric Program shall be reviewed under the General Review Considerations of Ga. Comp. R. & Regs. r. 111-2-2-.09 and the service-specific review considerations of this Rule.

(2) **Definitions.**

(a) "Adults" means persons eighteen (18) years of age and over. However, a Certificate of Need authorized or grandfathered Comprehensive Inpatient Physical Rehabilitation Adult Program will not be in violation of the Certificate of Need laws and regulations if it provides service to a patient older than fifteen years if the provider has determined that such service is medically necessary, provided that the treatment days and patient census associated with patients sixteen and seventeen years of age do not exceed ten percent (10%) of annual treatment days and annual census, respectively. Rehabilitation programs specifically focused towards treatment of spinal cord injuries and disorders and which existed prior to the effective date of this version of Ga. Comp. R. & Regs. r. 111-2-2-.35 shall not be subject to the adult age limitations; such programs may treat any patient aged twelve (12) and over.

(b) "Comprehensive Inpatient Physical Rehabilitation Programs" means rehabilitation services, which have been classified by Medicare as an inpatient rehabilitation facility pursuant to 42 C.F.R. § 412.23(b)(2), provided to a patient who requires hospitalization, which provides coordinated and integrated services that include evaluation and treatment, and emphasizes education and training of those served. The program is applicable to those individuals who require an intensity of services which includes, as a minimum, physician coverage twenty-four (24) hours per day, seven (7) days per week, with daily (at least five (5) days per week) medical supervision, complete medical support services including consultation, 24-hour-per-day nursing, and daily (at least five (5) days per week) multidisciplinary rehabilitation programming for a minimum of three hours per day. For regulatory purposes, the definition includes a program which asserts its intent to be Medicare-classified as an inpatient rehabilitation facility no later than twenty-four (24) months after accepting its first patient. If a program, which has been awarded a CON pursuant to this Rule, has not been so classified by Medicare within the timeframe outlined above, the CON issued to that entity shall be revoked.

(c) "Expansion" and "Expanded" mean the addition of beds to an existing CON-authorized or grandfathered Comprehensive Inpatient Physical Rehabilitation Program. However, a CON-authorized or grandfathered provider of Comprehensive Inpatient Physical Rehabilitation in a freestanding rehabilitation hospital may increase the bed capacity of an existing program by the lesser of ten percent (10%) of existing capacity or ten (10) beds if it has maintained an average occupancy of eighty-five percent (85%) for the previous twelve (12) calendar months provided that there has been no such increase in the prior two years.

(d) "Freestanding Rehabilitation Hospital" means a specialized hospital organized and operated as a self-contained health care facility that provides one or more rehabilitation programs and which has been classified as an inpatient rehabilitation facility by the Medicare program pursuant to 42 C.F.R. § 412.23(b)(2). For regulatory purposes, the definition includes a hospital which asserts its intent to be Medicare-classified as an inpatient rehabilitation facility no later than twenty-four (24) months after accepting its first patient. If an entity, which has been awarded a CON pursuant to this Rule, has not been so classified by Medicare within the timeframe outlined above, the CON issued to that entity shall be revoked. An entity, which has had its CON revoked pursuant to this Rule, shall not have the authority to operate as a general acute care hospital.

(e) "New" means a Program that has not been classified by the Medicare program as a rehabilitation hospital or program in the previous twelve (12) months. Adult programs described in Ga. Comp. R. & Regs. r. 111-2-2-.35(1)(a) and pediatric programs described in Ga. Comp. R. & Regs. r. 111-2-2-.35(1)(b) shall be considered independent programs such that a provider seeking to add a program not offered by that provider in the previous twelve (12) months shall be considered to be offering a new program for which a Certificate of Need must be obtained. For purposes of these Rules, an existing program which proposes to be relocated to a location more than three (3) miles from its present location shall be considered "new".

(f) "Official State Health Component Plan" means the document related to Physical Rehabilitation Programs and Services developed by the Department, established by the Georgia Health Strategies Council and signed by the Governor of Georgia.

(g) "Pediatric" means persons seventeen (17) years of age and under. However, a CON-authorized or grandfathered Comprehensive Inpatient Rehabilitation Pediatric Program will not be in violation of the CON laws and regulations if it provides service to a patient younger than twenty-two (22) years if the provider has determined that such service is medically necessary, provided that the treatment days and patient census associated with patients eighteen, nineteen, twenty, and twenty-one years of age do not exceed ten percent (10%) of annual treatment days and annual census, respectively. Rehabilitation programs specifically focused towards treatment of spinal cord injuries and disorders and which existed prior to the effective date of this version of Ga. Comp. R. & Regs. r. 111-2-2-.35 shall not be subject to the pediatric age limitations; such programs may treat any patient aged twelve (12) and over.

(h) "Planning Region" means one of the four sub-state regions for Physical Rehabilitation Programs and Services as follows:

1. Rehabilitation Region 1, including the following counties: Dade, Walker, Catoosa, Whitfield, Murray, Gilmer, Fannin, Union, Towns, Rabun, Stephens, Habersham, White, Lumpkin, Dawson, Pickens, Gordon, Chattooga, Floyd, Bartow, Cherokee, Forsyth, Hall, Banks, Franklin, Hart, Elbert, Madison, Jackson, Barrow, Gwinnett, Fulton, Cobb, Paulding, Polk, Haralson, Carroll, Douglas, DeKalb, Rockdale, Walton, Oconee, Clarke, Oglethorpe, Greene, Morgan, Newton, Butts, Henry, Clayton, Fayette, Coweta, Heard, Troup, Meriwether, Pike, Spalding, Lamar, and Upson

2. Rehabilitation Region 2, including the following counties: Wilkes, Lincoln, Columbia, McDuffie, Warren, Taliaferro, Hancock, Glascock, Putnam, Jasper, Monroe, Jones, Baldwin, Washington, Jefferson, Richmond, Burke, Screven, Jenkins, Emmanuel, Johnson, Treutlen, Montgomery, Wheeler, Telfair, Wilcox, Dodge, Laurens, Pulaski, Bleckley, Houston, Peach, Twiggs, Wilkinson, Bibb, and Crawford

3. Rehabilitation Region 3, including the following counties: Harris, Talbot, Taylor, Muscogee, Chattahoochee, Marion, Schley, Macon, Dooly, Sumter, Webster, Stewart, Quitman, Randolph, Terrell, Lee, Crisp, Ben Hill, Irwin, Turner, Worth, Dougherty, Calhoun, Clay, Early, Baker, Mitchell, Colquitt, Miller, Cook, Tift, Berrien, Lanier, Echols, Lowndes, Brooks, Thomas, Grady, Decatur, and Seminole

4. Rehabilitation Region 4, including the following counties: Effingham, Bulloch, Candler, Toombs, Tattnall, Evans, Bryan, Chatham, Liberty, Long, Wayne, Appling, Jeff Davis, Coffee, Bacon, Pierce, Brantley, McIntosh, Glynn, Camden, Charlton, Ware, Atkinson, and Clinch

(3) **Service-Specific Review Standards.**

(a) The need for a new or expanded Comprehensive Inpatient Physical Rehabilitation Program ("CIPR") shall be determined and applied as follows:

1. The need for new or expanded Comprehensive Inpatient Physical Rehabilitation Adult Program in a planning region shall be determined using the following demand-based need projection:

(i) Determine the comprehensive inpatient physical rehabilitation utilization rate per 1,000 for the current year for each planning region by dividing the total number of inpatient physical rehabilitation discharges from licensed providers of inpatient rehabilitation in the planning region for patients aged eighteen (18) and over by current year projected resident population (aged 18 and over) for the planning region and multiplying by 1,000. The source of current year discharge data for purposes of this Rule include data collected pursuant to O.C.G.A. § 31-7-280(c)(14), or in the Department's discretion, discharge data collected on the most recent Annual Hospital Questionnaire. The source for current and horizon year resident population shall be resident population projections from the Governor's Office of Planning and Budget. For the first Horizon Year projection using this Rule, and for the first horizon year projection only, the utilization rate per 1,000 for each planning region shall be reduced by sixteen percent (16%) to account for anticipated utilization reduction after full implementation of the Center for Medicare and Medicaid Services' ("CMS") seventy-five percent (75%) rule.

(ii) Calculate the projected horizon year discharges for each planning region by multiplying the planning region utilization rate obtained in Step (i) by the horizon year resident population projection (aged 18 and over) for that planning region.

(iii) Determine the comprehensive inpatient physical rehabilitation average length of stay for the current year for each planning region by dividing the total number of inpatient physical rehabilitation discharge days of care from licensed providers of inpatient rehabilitation in the planning region for patients aged eighteen (18) and over by the current year inpatient rehabilitation discharges determined in Step (i).

(iv) Multiply the projected discharges obtained in Step (ii) by the current year's average length of stay (aged 18 and over) determined in Step (iii) to determine the horizon year projected patient days for each planning region.

(v) Divide the product obtained in Step (iv) by the number of calendar days in the horizon year to obtain the average projected daily census in each planning region.

(vi) Divide the result obtained in Step (v) by .85 to determine the number of projected beds utilizing an eighty-five percent (85%) capacity standard for each planning region.

(vii) Determine the current inventory of comprehensive inpatient physical rehabilitation beds for adults in the planning region from Departmental data. For all CIPR providers, which have been licensed as a Rehabilitation Hospital by the Healthcare Facility Regulation Division, the current inventory of CIPR beds shall reflect the number of beds reported as CON-authorized in the Facility Inventory prior to the date of adoption of these Rules augmented from that time forward only by increases in bed capacity approved through the CON process (or by exemptions thereto) and by decreases due to a provider ceasing to provide such services for a period in excess of twelve (12) months. For purposes of this Rule, the initial inventory shall not include the beds of licensed Long Term Care Hospitals; the beds of such facilities shall be included in the applicable Long Term Care Hospital inventory.

(viii) If the projected bed need in Step (vi) is greater than the current inventory of adult CIPR beds in the planning region, the application for the Certificate of Need should reflect a number of beds equal to or lesser than the resulting unmet bed need.

2. The need for new or expanded Comprehensive Inpatient Physical Rehabilitation Pediatric Program in a planning region shall be determined using the following demand-based need projection:

(i) Determine the comprehensive inpatient physical rehabilitation utilization rate per 1,000 for the current year for each planning region by dividing the total number of inpatient physical rehabilitation discharges from licensed providers of inpatient rehabilitation in the planning region for patients aged seventeen (17) and under by current year resident population (aged 17 and under) for the planning region. The source of current year discharge data for purposes of this Rule include data collected pursuant to O.C.G.A. § 31-7-280(c)(14), or in the Department's discretion, discharge data collected on the most recent Annual Hospital Questionnaire.

(ii) Calculate the projected horizon year discharges for each planning region by multiplying the planning region utilization rate obtained in Step (i) by the horizon year resident population projection (aged 17 and under) for that planning region.

(iii) Determine the comprehensive inpatient physical rehabilitation average length of stay for the current year for each planning region by dividing the total number of inpatient physical rehabilitation discharge days of care from licensed providers of inpatient rehabilitation in the planning region for patients aged seventeen (17) and under by the current year inpatient rehabilitation discharges determined in Step (i).

(iv) Multiply the projected discharges obtained in Step (ii) by the current year's average length of stay (aged 17 and under) determined in Step (iii) to determine the horizon year projected patient days for each planning region.

(v) Divide the product obtained in Step (iv) by the number of calendar days in the horizon year to obtain the average projected daily census in each planning region.

(vi) Divide the result obtained in Step (v) by .85 to determine the number of projected beds utilizing an eighty-five percent (85%) capacity standard for each planning region.

(vii) Determine the current inventory of comprehensive inpatient physical rehabilitation beds for pediatric patients in the planning region from Departmental data. For all CIPR providers, which have been licensed as a Rehabilitation Hospital by the Healthcare Facility Regulation Division, the current inventory of CIPR beds shall reflect the number of beds reported as CON-authorized in the Facility Inventory prior to the date of adoption of these Rules augmented from that time forward only by increases in bed capacity approved through the CON process (or by exemptions thereto) and by decreases due to a provider ceasing to provide such services for a period in excess of twelve (12) months. For purposes of this Rule, the initial inventory shall not include the beds of licensed Long Term Care Hospitals; the beds of such facilities shall be included in the applicable Long Term Care Hospital inventory.

(viii) If the projected bed need in Step (vi) is greater than the current inventory of pediatric CIPR beds in the planning region, the application for the Certificate of Need should reflect a number of beds equal to or lesser than the resulting unmet bed need.

(b) An applicant for a new or expanded Comprehensive Inpatient Physical Rehabilitation Program shall document that the establishment or expansion of its program will not have an adverse impact on existing and approved programs of the same type in its planning region. An applicant for a new or expanded Comprehensive Inpatient Physical Rehabilitation Program shall have an adverse impact on existing and approved programs of the same type if it will:

1. decrease annual utilization of an existing program, whose current utilization is at or above eighty-five percent (85%), to a projected annual utilization of less than seventy-five percent (75%) within the first twelve (12) months following the acceptance of the applicant's first patient; or

2. decrease annual utilization of an existing program, whose current utilization is below eighty-five percent (85%), by ten percent over the twelve (12) months following the acceptance of the applicant's first patient.

(c) The Department may grant the following exceptions:

1. The Department may grant an exception to the need methodology of Ga. Comp. R. & Regs. r. 111-2-2-.35(3)(a) 1. and to the adverse impact standard of Ga. Comp. R. & Regs. r. 111-2-2-.35(3)(b) for an applicant proposing a program to be located in a county with a population of less than 75,000 and to be located a minimum of fifty (50) miles away from any existing program in the state.

2. The Department may grant an exception to the need methodologies of either Ga. Comp. R. & Regs. r. 111-2-2-.35(3)(a) 1. or 111-2-2-.35(3)(a) 2. and to the adverse impact standard of Ga. Comp. R. & Regs. r. 111-2-2-.35(3)(b) to remedy an atypical barrier to Comprehensive Inpatient Physical Rehabilitation Programs based on cost, quality, financial access or geographic accessibility or if the applicant's annual census demonstrates thirty percent (30%) out of state utilization for the previous two years.

3. The Department may grant an exception to the need methodologies of Ga. Comp. R. & Regs. r. 111-2-2-.35(3)(a) 1. or Ga. Comp. R. & Regs. r. 111-2-2-.35(3)(a) 2. in a planning area which has no existing provider provided that the applicant demonstrates a need for the service based on patient origin data.

(d) A new Comprehensive Inpatient Physical Rehabilitation Program shall have the following minimum bed sizes based on type of program offered:

1. A new Comprehensive Inpatient Physical Rehabilitation Adult Program shall have a minimum bed size of twenty (20) beds in a freestanding rehabilitation hospital already offering another Comprehensive Inpatient Physical Rehabilitation Program, twenty (20) beds or in an acute-care hospital, and forty (40) beds for a new freestanding rehabilitation hospital not already offering another Comprehensive Inpatient Physical Rehabilitation Program.

2. A new Comprehensive Inpatient Physical Rehabilitation Pediatric Program shall have a minimum of 10 beds in a freestanding rehabilitation hospital already offering another Comprehensive Inpatient Physical Rehabilitation Program, 10 beds in an acute-care hospital, and forty (40) beds for a new freestanding rehabilitation hospital not already offering another Comprehensive Inpatient Physical Rehabilitation Program.

(e) An applicant for a new Comprehensive Inpatient Physical Rehabilitation Program shall demonstrate the intent to meet the standards of the Commission on Accreditation of Rehabilitation Facilities ("CARF") applicable to the type of Program to be offered within eighteen (18) months of offering the new service.

(f) An applicant for an expanded Comprehensive Inpatient Physical Rehabilitation Program shall be accredited by the CARF for the type of Program which the applicant seeks to expand prior to application. The applicant must provide proof of such accreditation.

(g) An applicant for a new freestanding rehabilitation hospital shall demonstrate the intent to meet the licensure Rules of the Healthcare Facility Regulation Division for such hospitals.

(h) An applicant for an expanded freestanding rehabilitation hospital shall demonstrate a lack of uncorrected deficiencies as documented by letter from the Healthcare Facility Regulation Division.

(i) An applicant for a new or expanded Comprehensive Inpatient Physical Rehabilitation Program shall have written policies and procedures for utilization review. Such review shall consider, but is not limited to, factors such as medical necessity, appropriateness and efficiency of services, quality of patient care, and rates of utilization.

(j) An applicant for a new or expanded freestanding rehabilitation hospital shall document the existence of referral arrangements, including transfer agreements with an acute-care hospital(s) within the planning region to provide emergency medical treatment to any patient who requires such care. If the nearest acute-care hospital is in an adjacent planning region, the applicant may document the existence of transfer agreements with that hospital in lieu of such agreements with a hospital located within the planning region.

(k) An applicant for a new or expanded Comprehensive Inpatient Physical Rehabilitation Program shall foster an environment that assures access to services to individuals unable to pay and regardless of payment source or circumstances by the following:

1. providing evidence of written administrative policies and directives related to the provision of services on a nondiscriminatory basis;

2. providing a written commitment that un-reimbursed services for indigent and charity patients in the service will be offered at a standard which meets or exceeds three percent (3%) of annual gross revenues for the service after Medicare and Medicaid contractual adjustments and bad debt have been deducted; and

3. providing documentation of the demonstrated performance of the applicant, and any facility in Georgia owned or operated by the applicant's parent organization, of providing services to individuals unable to pay based on the past record of service to Medicare, Medicaid, and indigent and charity patients, including the level of un-reimbursed indigent and charity care.

(l) **Reserved.**

(m) An applicant for a new or expanded Comprehensive Inpatient Physical Rehabilitation Program shall agree to provide the State Health Department with requested information and statistical data related to the operation of such a Program on a yearly basis, or as needed, and in a format requested by the Department.

Cite as Ga. Comp. R. & Regs. R. 111-2-2-.35

AUTHORITY: O.C.G.A. §§ 31-2 *et seq*., 31-6 *et seq*.

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Note: Rule 111-2-2-.35, the incorrect version of the Rule was inadvertently filed (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) and appeared on the Rules and Regulations website April 28, 2022 through March 12, 2023. The correct version, as promulgated and adopted on March 10, 2022, was updated on the Rules and Regulations website March 13, 2023, the original filed and effective dates (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) were retained, as requested by the Agency. Effective March 10, 2023.

Amended: F. Dec. 24, 2024; eff. Jan. 13, 2025.

111-2-2-.36 Specific Review Considerations for Long Term Care Hospitals

(1) **Applicability.** A Certificate of Need ("CON") shall be required prior to the establishment of a new or the expansion of an existing Long Term Care Hospital. An application for Certificate of Need for a new or expanded Long Term Care Hospital shall be reviewed under the General Review Considerations of Ga. Comp. R. & Regs. r. 111-2-2-.09 and the service-specific review considerations of this Rule.

(2) **Definitions.**

(a) "Expansion" or "Expanded" means the addition of beds to an existing CON-authorized or grandfathered Long Term Care Hospital. A CON-authorized or grandfathered Long Term Care Hospital may increase the bed capacity of an existing hospital by the lesser of ten percent (10%) of existing capacity or 10 beds if it has maintained an average occupancy of eighty-five percent (85%) for the previous twelve (12) calendar months provided that there has been no such increase in the prior two years and provided that the capital expenditures associated with the increase do not exceed the Capital Expenditure Threshold. If such an increase exceeds the Capital Expenditure Threshold, the increase will be considered an expansion for which a Certificate of Need shall be required under these Rules.

(b) "Free-standing LTCH" or "Free-standing LTACH" means a Long Term Care Hospital organized and operated as a self-contained health care facility.

(c) "Hospital-within-a-Hospital LTCH" or "Hospital-within-a-Hospital LTACH" means a Long Term Care Hospital co-located within the same building or the same campus as another CON-Authorized hospital.

(d) "Long Term Care Hospital" or "LTCH" or "Long Term Acute Care Hospital" or "LTACH" means a hospital that is classified as a long term hospital by the Medicare program pursuant to 42 CFR 412.23(e). These hospitals typically provide extended medical and rehabilitative care for patients who are clinically complex and may suffer from multiple acute or chronic conditions. Services typically include comprehensive rehabilitation, respiratory therapy, head trauma treatment, and pain management. For regulatory purposes, the definition includes a hospital which asserts its intent to be Medicare-classified as a long term hospital within twenty-four (24) months of accepting its first patient. If an entity, which has been awarded a CON pursuant to this Rule, has not been so classified by Medicare within this timeframe, the CON issued to that entity shall be revoked. An entity, which has had its CON revoked pursuant to this Rule, shall not have the authority to operate as a general acute care hospital. However, an acute care hospital, which has been awarded a CON to convert acute care beds for use as a long term care hospital, may again use such beds for acute care if such beds have not been Medicare-classified as a long term care hospital within twenty-four (24) months of accepting its first patient. Furthermore, a hospital that has been approved through the Certificate of Need process to use all of its short-stay beds for a Freestanding LTCH shall have such beds removed from the official inventory of available short-stay beds when the LTCH is certified by Medicare; provided, however, that the hospital's beds will revert to the official inventory of available short-stay beds at any point that the facility ceases to be certified by Medicare as an LTCH.

(e) "New" means a hospital that has not been classified by the Medicare program as a long term hospital in the previous twelve (12) months. For purposes of these Rules, an existing hospital which proposes to be relocated to a location more than three miles from its present location shall be considered "new".

(f) "Occupancy Rate" means the ratio of beds occupied by inpatients as reported on the most recent Annual Hospital Questionnaire divided by the total licensed beds.

(g) "Official State Health Component Plan" means the document related to Long Term Care Hospitals developed by the Department, established by the Georgia Health Strategies Council and signed by the Governor of Georgia.

(h) "Planning Region" means one of the four sub-state regions for Long Term Care Hospitals, as follows:

1. LTCH Region 1, including the following counties: Dade, Walker, Catoosa, Whitfield, Murray, Gilmer, Fannin, Union, Towns, Rabun, Stephens, Habersham, White, Lumpkin, Dawson, Pickens, Gordon, Chattooga, Floyd, Bartow, Cherokee, Forsyth, Hall, Banks, Franklin, Hart, Elbert, Madison, Jackson, Barrow, Gwinnett, Fulton, Cobb, Paulding, Polk, Haralson, Carroll, Douglas, DeKalb, Rockdale, Walton, Oconee, Clarke, Oglethorpe, Greene, Morgan, Newton, Butts, Henry, Clayton, Fayette, Coweta, Heard, Troup, Meriwether, Pike, Spalding, Lamar, and Upson

2. LTCH Region 2, including the following counties: Wilkes, Lincoln, Columbia, McDuffie, Warren, Taliaferro, Hancock, Glascock, Putnam, Jasper, Monroe, Jones, Baldwin, Washington, Jefferson, Richmond, Burke, Screven, Jenkins, Emmanuel, Johnson, Treutlen, Montgomery, Wheeler, Telfair, Wilcox, Dodge, Laurens, Pulaski, Bleckley, Houston, Peach, Twiggs, Wilkinson, Bibb, and Crawford

3. LTCH Region 3, including the following counties: Harris, Talbot, Taylor, Muscogee, Chattahoochee, Marion, Schley, Macon, Dooly, Sumter, Webster, Stewart, Quitman, Randolph, Terrell, Lee, Crisp, Ben Hill, Irwin, Turner, Worth, Dougherty, Calhoun, Clay, Early, Baker, Mitchell, Colquitt, Miller, Cook, Tift, Berrien, Lanier, Echols, Lowndes, Brooks, Thomas, Grady, Decatur, and Seminole

4. LTCH Region 4, including the following counties: Effingham, Bulloch, Candler, Toombs, Tattnall, Evans, Bryan, Chatham, Liberty, Long, Wayne, Appling, Jeff Davis, Coffee, Bacon, Pierce, Brantley, McIntosh, Glynn, Camden, Charlton, Ware, Atkinson, and Clinch

(3) **Service-Specific Review Standards.**

(a) The need for new or expanded Long Term Care Hospital in a LTCH planning region shall be determined using the following need projection:

1. Determine the total discharges from general acute care hospitals less LTCH discharges, and less perinatal and neonatal discharges, and less psychiatric and substance abuse discharges, and less comprehensive inpatient physical rehabilitation discharges for the planning region in which the Long Term Care Hospital is or will be located. The source of discharge data for purposes of this Rule include data collected pursuant to O.C.G.A. § 31-7-280(c)(14), or in the Department's discretion, discharge data collected on the most recent Annual Hospital Questionnaire.

2. Calculate the discharge rate for each planning region by dividing the number of current acute care discharges obtained in Step 1 in each planning region by the corresponding year's resident population projection from the Governor's Office of Planning and Budget in each planning region.

3. Calculate the projected discharges for each planning region by multiplying the discharge rate obtained in Step 2 by the horizon year resident population projection for that planning region and then reduce that figure by six percent (6%) to account for overlap with rehabilitation facilities.

4. Calculate gross beds needed in the horizon year as follows:

(i) Multiply the projected discharges obtained in Step 3 by a utilization factor of 1.3% to determine the projected number of acute care discharge who may benefit from services at a LTCH.

(ii) Multiply the product obtained in Step 4(i) by the average LTCH length of stay for the most recent previous three-year period. Beginning with the first need calculation and continuing until the third complete year of survey data collected pursuant to this Rule, the Department shall use 28.1 as a proxy for the average LTCH length of stay for the previous three years.

(iii) Divide the product obtained in Step 4(ii) by 365 to determine the projected daily LTCH census.

(iv) Divide the result obtained in Step 4(iii) by .85 to determine the number of projected LTCH beds utilizing an eighty-five percent (85%) capacity standard.

5. Determine the current inventory of LTCH beds in the planning region from Departmental data. For all long term care hospital providers, which have been licensed as a Long Term Care Hospital by the Healthcare Facility Regulation Division, the current inventory of LTCH beds shall reflect the number of beds reported as CON-authorized in the Facility Inventory prior to the date of adoption of these Rules augmented from that time forward only by increases in bed capacity approved through the CON process (or by exemptions thereto) and by decreases due to a provider ceasing to provide such services for a period in excess of twelve (12) months. For purposes of this Rule, the initial inventory shall not include the beds of licensed rehabilitation hospitals even if such hospitals have a reported average length of stay of greater than twenty-five (25) days for Medicare patients; the beds of such facilities shall continue to be included in the applicable Comprehensive Inpatient Physical Rehabilitation inventory.

6. If the projected LTCH bed need in Step 4(iv) is greater than the current inventory of LTCH beds in the planning region, the application for the Certificate of Need should reflect a number of beds equal to or lesser than the resulting unmet bed need.

(b) An applicant for a new or expanded Long Term Care Hospital shall document that the establishment or expansion of its hospital will not have an adverse impact on an existing and approved long term care hospital in its planning region. An applicant for a new or expanded Long Term Care Hospital shall have an adverse impact on existing and approved hospitals of the same type if it will:

1. decrease annual utilization of an existing hospital, whose current utilization is at or above eighty-five percent (85%), to a projected annual utilization of less than seventy-five percent (75%) within the first twelve (12) months following the acceptance of the applicant's first patient; or

2. decrease annual utilization of an existing hospital, whose current utilization is below eighty-five percent (85%), by ten percent (10%) over the twelve (12) months following the acceptance of the applicant's first patient.

The applicant shall provide evidence of projected impact by taking into account existing planning region market share of hospitals of the same type and future population growth or by providing sufficient evidence that the current population is underserved by the existing Long Term Care Hospitals within the planning region.

(c) The Department may grant an exception to the need methodology of Ga. Comp. R. & Regs. r. 111-2-2-.36(3)(a) and to the adverse impact standard of Ga. Comp. R. & Regs. r. 111-2-2-.36(3)(b) for an applicant proposing a program to be located in a county with a population of less than 75,000 and to be located a minimum of fifty (50) miles away from any existing program in the state; or to remedy an atypical barrier to the services of a Long Term Care Hospital based on cost, quality, financial access or geographic accessibility. The Department may grant an exception to the need methodologies of either Ga. Comp. R. & Regs. r. 111-2-2-.36(3)(a) and to the adverse impact standard of Ga. Comp. R. & Regs. r. 111-2-2-.36(3)(b) if the applicant's annual census demonstrates thirty percent (30%) out of state utilization for the previous two years.

(d) A new or expanded Long Term Care Hospital shall have the following minimum bed sizes:

1. A new freestanding LTCH shall have a minimum bed size of forty (40) beds.

2. A new Hospital-within-a-Hospital LTCH shall have a minimum bed size of twenty (20) beds.

3. The minimum number of beds for the expansion of an existing Long Term Care Hospital, including satellite locations, shall be ten (10) beds or ten percent (10%) of the total current authorized bed capacity of the Long Term Care Hospital, whichever is less.

(e) An applicant for a new Long Term Care Hospital shall demonstrate the intent to meet the standards of the Joint Commission or another nationally recognized health care accreditation body within twenty-four (24) months of accepting its first patient. An applicant for an expanded Long Term Care Hospital shall be Joint Commission-certified or certified by another nationally recognized health care accreditation body as of the date of its application and shall furnish proof of the certification as a part of the Certificate of Need application process.

(f) An applicant for a new Long Term Care Hospital shall demonstrate the intent to meet the Licensure Rules of the Healthcare Facility Regulation Division for such hospitals. An applicant for an expanded Long Term Care Hospital shall demonstrate a lack of uncorrected deficiencies as documented by letter from the Healthcare Facility Regulation Division.

(g) An applicant for a new or expanded Long Term Care Hospital shall have written policies and procedures for utilization review. Such review shall consider, but is not limited to, factors such as medical necessity, appropriateness and efficiency of services, quality of patient care, and rates of utilization.

(h) An applicant for a new or expanded Long Term Care Hospital shall document the existence of referral arrangements, including transfer agreements, with an acute-care hospital(s) within the planning region to provide emergency medical treatment to any patient who requires such care. If the nearest acute-care hospital is in an adjacent planning region, the applicant may document the existence of transfer agreements with that hospital in lieu of such agreements with a hospital located within the planning region.

(i) An applicant for a new or expanded Long Term Care Hospital shall foster an environment that assures access to services to individuals unable to pay and regardless of payment source or circumstances by the following:

1. providing evidence of written administrative policies and directives related to the provision of services on a nondiscriminatory basis;

2. providing a written commitment that un-reimbursed services for indigent and charity patients in the service will be offered at a standard which meets or exceeds three percent (3%) of annual gross revenues for the service after Medicare and Medicaid contractual adjustments and bad debt have been deducted;

3. providing documentation of the demonstrated performance of the applicant, and any facility in Georgia owned or operated by the applicant's parent organization, of providing services to individuals unable to pay based on the past record of service to Medicare, Medicaid, and indigent and charity patients, including the level of un-reimbursed indigent and charity care;

4. providing documentation of current or proposed charges and policies, if any, regarding the amount or percentage of charges that charity patients, self pay patients, and the uninsured will be expected to pay; and

5. agreeing to participate in the Medicare and Medicaid programs if such programs reimburse for such services.

(j) **Reserved**.

(k) An applicant for a new or expanded Long Term Care Hospital shall agree to provide the Department with requested information and statistical data related to the operation of such a Program on a yearly basis, or as needed, and in a format requested by the Department.

Cite as Ga. Comp. R. & Regs. R. 111-2-2-.36

AUTHORITY: O.C.G.A. §§ 31-2 et seq., 31-6 et seq.

HISTORY: Original Rule entitled "Specific Review Considerations for Long Term Care Hospitals" adopted. F. Nov. 17, 2005; eff. Dec. 7, 2005.

Amended: F. Nov. 22, 2006; eff. Dec. 12, 2006.

Amended: F. Mar. 11, 2022; eff. Mar. 31, 2022.

Note: Rule 111-2-2-.36, the incorrect version of the Rule was inadvertently filed (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) and appeared on the Rules and Regulations website April 28, 2022 through March 12, 2023. The correct version, as promulgated and adopted on March 10, 2022, was updated on the Rules and Regulations website March 13, 2023, the original filed and effective dates (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) were retained, as requested by the Agency. Effective March 10, 2023.

Amended: F. Dec. 24, 2024; eff. Jan. 13, 2025.

111-2-2-.40 Specific Review Considerations for Ambulatory Surgery Services

(1) **Applicability.** For Certificate of Need purposes, an Ambulatory Surgery Service is considered a new institutional health service if it is to be offered in an ambulatory surgery facility ("ASF") or in a diagnostic, treatment, or rehabilitation center ("DTRC").

(a) If the ambulatory surgery service is or will be provided as "part of a hospital", the hospital's provision of such service is not subject to Certificate of Need review under this Rule. For purposes of this Rule, the following are always considered to be "part of a hospital":

a) if the service is located within a hospital; or

b) if the service is located in a building on the hospital's primary campus and that building, or relevant portion thereof, is included within the hospital's permit issued by the State's licensing agency, subject to determination by the Department. The Department also will make a determination of reviewability on a case-by-case basis in other situations involving hospitals.

(b) The entity that develops any ambulatory surgery service shall be the applicant.

(c) A single specialty ambulatory surgery service will be issued a single specialty CON. A new CON will be required to become a multi-specialty service.

(d) These Rules do not apply to adult open-heart surgery, adult cardiac catheterization, pediatric cardiac catheterization, pediatric open-heart surgery, and obstetrical services because these services are covered under other CON Rules. If an ambulatory surgery service, which is part of a hospital, expands the number of ambulatory surgery operating rooms, the project will be reviewed under Ga. Comp. R. & Regs. r. 111-2-2-.40.

(2) **Definitions.**

(a) "Ambulatory surgery" means surgical procedures that include but are not limited to those recognized by the Centers for Medicare and Medicaid Services ("CMS"), the Department's Division of Medical Assistance ("DMA"), the State Health Benefit Plans, or by any successor entities, as reimbursable ambulatory surgery procedures. Ambulatory surgery is provided only to patients who are admitted to a facility which offers ambulatory surgery and which does not admit patients for treatment that normally requires stays that are overnight or exceed twenty-four (24) hours and which does not provide accommodations for treatment of patients for periods of twenty-four hours or longer.

(b) "Ambulatory surgery facility" means a public or private facility, not part of a hospital, which provides surgical treatment performed under general or regional anesthesia in an operating room environment to patients not requiring hospitalization. In addition to operating rooms, an ambulatory surgery facility includes all components of pre and post-operative ambulatory surgery care.

(c) "Ambulatory surgery operating room" means an operating room located either in a hospital, in an ambulatory surgery facility, or in a DTRC facility that is equipped to perform surgery and is constructed to meet the specifications and standards of the Healthcare Facility Regulation Division.

(d) "Ambulatory surgery service" means the provision of ambulatory surgery including pre and post-operative care to patients not requiring hospitalization. An ambulatory surgery service may be provided within any of the following types of healthcare facilities: hospitals, ambulatory surgery facilities, or DTRCs.

(e) "Ambulatory surgery services patient" means a person who makes a single visit to an operating room during which one or more surgical procedures are performed.

(f) "Authorized ambulatory surgery service" means a Department sanctioned ambulatory surgery service, which is either existing or approved prior to the date on which the Department renders a decision on a proposed project. An existing ambulatory surgery service is an authorized service, which has become operational, and an approved ambulatory surgery service is an authorized service, which has not yet become operational, including any approvals under appeal.

(g) "Diagnostic, treatment, or rehabilitation center ("DTRC") facility" means, for purposes of this Rule, any professional or business undertaking, whether for profit or not-for-profit, which offers or proposes to offer an ambulatory surgery service in a setting that is not part of a hospital.

(h) "Most recent year" means the most current twelve-month period within a month of the date of completion of an application or within a month of the date of completion of the first application when applications are joined. If the Department has received an annual or ad hoc survey within six (6) months of the date of completion of the application (or first application when applications are joined), the Department may consider the report period covered in such a survey as the most recent year.

(i) "Multi-specialty ambulatory surgery service" means an ambulatory surgery service offering surgery in more than one of, but not limited to, the following specialties; dentistry/oral surgery, gastroenterology, general surgery, obstetrics/gynecology, ophthalmology, orthopedics, otolaryngology, pain management/anesthesiology, plastic surgery, podiatry, pulmonary medicine, or urology.

(j) "Not requiring hospitalization" means patients who do not require an inpatient admission to an acute care general hospital prior to receiving ambulatory surgery services, who normally would not require a stay that is overnight or exceeds twenty-four (24) hours, and who are not expected to require an inpatient admission after receiving such services.

(k) "Official inventory" means the inventory of all facilities authorized to perform ambulatory surgery services maintained by the Department based on responses to the most recent Annual Hospital Questionnaire ("AHQ") Surgical Services Addendum and Freestanding Ambulatory Surgery Center Survey and/or the most recent appropriate surveys and questionnaires.

(l) "Official state component plan" means the document related to ambulatory surgery services adopted by the State Health Strategies Council, approved by the Board of Community Health, and implemented by the State of Georgia for the purpose of providing adequate health care services and facilities throughout the state.

(m) "Operating room environment" means an environment, which meets the minimum physical plant and operation standards specified by Chapter 111-8-4 of the Rules of the Healthcare Facility Regulation Division or such substantially equivalent standards as determined by the Department. Such acceptable standards shall be maintained on the Department's website.

(n) "Planning Area" means fixed sub-state regions for reviewable services as defined in the State Health Component Plan for Ambulatory Surgery Services.

(o) "Single specialty ambulatory surgery service" means an ambulatory surgery service providing surgery in only one of the specialty areas as defined in Ga. Comp. R. & Regs. r. 111-2-2-.40(2)(i).

(3) **Standards.**

(a) The need for an ambulatory surgery service shall be determined through application of a numerical need method and an assessment of the aggregate utilization rate of existing services.

1. The numerical need for an ambulatory surgery service shall be determined by a demographic formula which includes the number of ambulatory surgery services cases in a planning area. The following need calculation applies to each planning area:

(i) determine the projected ambulatory surgery services patients for the horizon year by multiplying the planning area ambulatory surgery patients' rate by the total Resident population for the planning area for the horizon year;

(ii) determine the number of operating rooms needed by dividing the number of projected ambulatory surgery services patients (step i) by the capacity per operating room. Capacity per operating room per year is 1000 patients. (This is based on 250 operating room days per year (50 weeks x 5 days/weeks) x 5 patients per room per day x 80% utilization.);

(iii) determine the existing and approved inventory of ambulatory surgery operating rooms by adding:

(I) The pro-rata portion of hospital shared inpatient/ambulatory surgery operating rooms devoted to ambulatory surgery services. This portion is determined as follows: (# ambulatory surgery patients x 90 min.) {(ambulatory surgery patients x 90 min.)+(inpatient patients x 145 min.)} x # shared rooms

(II) # of hospital dedicated ambulatory surgery operating rooms; and

(III) # of freestanding ambulatory surgery operating rooms.

(iv) determine the projected net surplus or deficit for ambulatory surgery services by subtracting the total ambulatory surgery operating rooms needed (step iii) from the inventory of existing and approved ambulatory surgery services operating rooms in the planning area.

2. Prior to approval of a new or expanded ambulatory surgery service in any planning area, the aggregate utilization rate of all existing and approved ambulatory surgery service in that planning area shall equal or exceed eighty percent (80%) during the most recent year; and

3. A proposed multi-specialty ambulatory surgery service shall have a minimum of three operating rooms and a single specialty ambulatory surgery service shall have a minimum of two operating rooms.

(b) The Department may allow an exception to the need standard referenced in (3)(a), in order to remedy an atypical barrier to ambulatory surgery services based on cost, quality, financial access, or geographic accessibility. An applicant seeking such an exception shall have the burden of proving to the Department that the cost, quality, financial access, or geographic accessibility of current services, or some combination thereof, result in a barrier to services that should typically be available to citizens in the planning area and/or the communities under review. In approving an applicant through the exception process, the Department shall document the bases for granting the exception and the barrier or barriers that the successful applicant would be expected to remedy.

(c) Each applicant shall have a hospital affiliation agreement and/or the medical director must have admitting privileges and other acceptable documented arrangements to insure the necessary backup for medical complications. The applicant must document the capability to transfer a patient immediately to a hospital with adequate emergency room services.

(d) An applicant shall submit written policies and procedures regarding discharge planning. These policies should include, where appropriate, designation of responsible personnel, participation by the patient, family, guardian or significant other, documentation of any follow-up services provided and evaluation of their effectiveness.

(e) An applicant shall provide evidence of a credentialing process that provides that surgical procedures will be performed only by licensed physicians who have been granted privileges to perform these procedures by the organization's governing body.

(f) An applicant shall assure that an anesthesiologist, a physician qualified to administer anesthesia, an oral surgeon, or a nurse anesthetist trained and currently certified in emergency resuscitation procedures is present on the premises at all times a surgical patient is present.

(g) An applicant shall submit evidence that qualified personnel will be available to insure a quality service to meet licensure, certification and/or accreditation requirements.

(h) An applicant shall submit a policy and plan for reviewing patient care, including a stated set of criteria for identifying those patients to be reviewed and a mechanism for evaluating the patient review process.

(i) An applicant shall submit written policies and procedures for utilization review consistent with state federal and accreditation standards. This review shall include review of the medical necessity for the service, quality of patient care, and rates of utilization.

(j) An applicant shall provide a written statement of its intent to comply with all appropriate licensure requirements and operational procedures required by the Healthcare Facility Regulation Division.

(k) An applicant for a new ambulatory surgery service shall provide a statement for the intent to meet, within twelve (12) months of obtaining state licensure, the appropriate accreditation requirements of the Joint Commission or another nationally recognized health care accreditation body, the Accreditation Association for Ambulatory Health Care (AAAHC), the American Association for Accreditation of Ambulatory surgery Facilities, Inc. (ASF) and/or other appropriate accrediting agency.

(l) An applicant for an expanded ambulatory surgery service shall provide documentation that they fully meet the appropriate accreditation requirements of the Joint Commission or another nationally recognized health care accreditation body, the Accreditation Association for Ambulatory Health Care ("AAAHC"), the American Association for Accreditation of Ambulatory Surgery Facilities, Inc. ("ASF") and/or other appropriate accrediting agency.

(m) An applicant shall provide documentation that charges are reasonable compared to other similar surgery services serving the same planning area.

(n) An applicant shall foster an environment that assures access to services to individual's unable to pay and regardless of payment source or circumstances by the following:

1. providing evidence of written administrative policies and directives related to the provision of services on a nondiscriminatory basis;

2. providing a written commitment that unreimbursed services for indigent and charity patients in the service will be offered at a standard which meets or exceeds three percent (3%) of annual gross revenues for the service after Medicare and Medicaid contractual adjustments and bad debt have been deducted; and

3. providing documentation of the demonstrated performance of the applicant, and any facility in Georgia owned or operated by the applicant or the applicant's parent organization, of providing services to individuals unable to pay based on the past record of service to Medicare, Medicaid, and indigent and charity patients, including the level of unreimbursed indigent and charity care.

(o) An applicant for an ambulatory surgery service shall document an agreement to provide Department requested information and statistical data related to the operation and provision of ambulatory surgery and to report that data to the Department in the time frame and format requested by the Department. This information shall include, but not be limited to, any changes in number of ambulatory surgery operating rooms that may occur as a result of service expansion.

Cite as Ga. Comp. R. & Regs. R. 111-2-2-.40

AUTHORITY: O.C.G.A. §§ 31-2 et seq., 31-6 et seq.

HISTORY: Original Rule entitled "Specific Review Considerations for Ambulatory Surgery Services" adopted. F. Dec. 16, 2004; eff. Jan. 5, 2005.

Amended: F. Dec. 14, 2007; eff. Jan. 3, 2008.

Amended: F. Sept. 11, 2008; eff. Oct. 1, 2008.

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Note: Rule 111-2-2-.40, the incorrect version of the Rule was inadvertently filed (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) and appeared on the Rules and Regulations website April 28, 2022 through March 12, 2023. The correct version, as promulgated and adopted on March 10, 2022, was updated on the Rules and Regulations website March 13, 2023, the original filed and effective dates (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) were retained, as requested by the Agency. Effective March 10, 2023.

Amended: F. Dec. 24, 2024; eff. Jan. 13, 2025.

111-2-2-.41 Specific Review Considerations for Positron Emission Tomography Units

(1) **Applicability.**

(a) A Certificate of Need shall be required for a new or expanded positron emission tomography ("PET") unit except as otherwise provided in O.C.G.A. § 31-6-47 and Ga. Comp. R. & Regs. r. 111-2-2-03.

(b) On or after January 1, 2008, the Department shall only consider and approve applications for dual modality PET units; stand-alone PET units shall not be approved.

(c) On or after July 1, 2024, an applicant for a mobile unit site shall be DTRC which has entered into an agreement to receive mobile services. The actual mobile service provider shall not be the applicant. The hospital or DTRC that is serviced by the mobile provider shall be responsible for the provision of annual surveys and the provision of information to the Department.

(d) **Reserved**.

(e) A Certificate of Need obtained by a hospital or DTRC to offer mobile PET services shall be valid for the provision of mobile PET services only. A DTRC approved to offer mobile PET services must obtain a separate CON prior to offering fixed PET services.

(2) **Definitions.**

(a) "Health Planning Area" or "planning area" means the thirteen (13) geographic regions in Georgia as defined in the official State Health Component Plan for use in planning for PET Scan services.

(b) "Horizon Year" means the last year of a five-year projection period for need determinations.

(c) "Expansion" or "expanded service" means the addition of a fixed or mobile unit at a DTRC. The addition of a component or components, such as computer tomography (CT) imaging, to an existing fixed or mobile unit or the upgrade of an existing fixed or mobile unit shall not be considered an expansion and shall not be subject to the need standards.

(d) "Fixed Unit" means a unit that is stationary within one approved facility.

(e) "Mobile Unit" means a unit that is operated by one or shared by two or more health care facilities and which has a data acquisition system and a computer. In order to meet the definition of mobile unit, the applicant must provide proof of the following:

1. The unit must not be on site at any Facility more than three (3) consecutive operating days per week or sixteen (16) total days per month.

2. The facilities involved with the mobile unit are fully informed and participating in the service as evidenced by written agreements or correspondence provided in the application.

3. For applications approved prior to January 1, 2008, a mobile provider is limited to providing service only to those facilities approved in the mobile provider's application for CON. On or after January 1, 2008, a mobile provider may serve any DTRC that receives a Certificate of Need for mobile PET services, provided that no DTRC may be serviced by more than one mobile provider at a time.

4. The applicant shall project scans per facility on a pro-rated basis for the first year of operation, and such projections shall be used in any need determinations during that first year of operation. Thereafter, in annual surveys, the applicant, if successful, must document scans by each service facility for use in need determinations.

(f) "Optimal Utilization" refers to scans per year and shall be defined as 2,750 PET scans per year. A PET Scan or Study means the gathering of data during a single patient visit from which one or more images may be constructed.

(g) "PET Scan Service" or "Service" means a facility that owns one or more units and provides diagnostic imaging through positron emission tomography exclusively or as a dedicated PET/CT or dual modality unit.

(h) "Positron Emission Tomography" or "PET" means a noninvasive diagnostic technology, which enables the body's physiological and biological processes to be observed through the use of positron emitting radiopharmaceuticals.

(i) "Unit" means a single piece of equipment that performs PET scans.

(3) **Standards.**

(a) The need for a new or expanded service shall be determined through the application of a Numerical Need method and an assessment of the aggregate utilization rate of existing and approved units.

1. The numerical need for a new unit in a planning area shall be determined through the application of a demand-based forecasting model. The model is outlined in the steps listed below, and all data elements relate to each planning area:

(i) Calculate the projected incidence of cancer for each county by multiplying the most recent Cancer Incidence Rate, as published by the State Cancer Registry, for each county by the horizon year population for the county;

(ii) Multiply the projected incidence of cancer by fifty percent (50%) to determine the projected number of patients diagnosed with cancer who might benefit from a scan.

(iii) Add the number of cancer cases that might benefit from a scan for each county within a Health Planning Area to determine the estimated need for services within a Health Planning Area for persons diagnosed with cancer.

(iv) Multiply the number of cancer cases for each Health Planning Area from subsection (iii) by 1.4 to accommodate for non-oncology patients and for follow-up scans for oncology patients in the projected need for services. On or after January 1, 2010, in lieu of multiplying by 1.4 each year, the Department shall use actual data from the previous 2 survey years to determine the multiplication factor by adding 1 to the ratio of cardiology, neurology and follow up oncology scans to the number of initial oncology scans.

(v) Calculate the number of needed units by dividing the number of individuals who might receive scanning services as determined from subsection (iv) by 2,750, which represents the optimal utilization of a unit.

(vi) Determine the net numerical unmet need for PET scan unit(s) by subtracting the total number of PET/CT or dual modality units currently existing or approved for use from the number of needed units. Mobile units shall be subtracted based on the number of days providing service to sites within a planning area in the most recent survey year divided by 365. Stand-alone PET units shall not be included in the inventory and shall not be subtracted to determine the net numerical unmet need.

(vii) If the net numerical unmet need in any Health Planning Area is at or above seventy-five percent (75%) of a unit (approximately 2,062 individuals needing scans), the needed units shall be rounded up by one unit. If the balance net numerical need in any Health Planning Area is at or above 3.2875% of a unit (approximately (90) individuals needing scans), a mobile unit may be approved to serve the planning area. The maximum number of days a mobile unit may be approved to provide services in the planning area shall be determined using the following formula:

APPROVED DAYS PER YEAR

< NET NUMERICAL UNMET NEED

365

2. Prior to the approval of a new or expanded unit in a planning area, the aggregate utilization rate for all units in that planning area that existed during the most recent survey year and that provided data to the Department for the most recent survey year shall equal or exceed eighty percent (80%) of optimal utilization for the most recent survey year.

(b) Exceptions to the need standards and requirements in (3)(a) may be granted by the Department:

1. to an applicant seeking to remedy an atypical barrier to services based on cost, quality, financial access, or geographic accessibility when the applicant has documented such a barrier;

2. to an applicant seeking the addition of a fixed unit who has been served solely by a mobile PET when the applicant demonstrates that 850 studies have been performed on the mobile unit at the applicant's facility in the most recent survey year; and

3. **Reserved**.

(c) In considering applications joined for review, the Department may give favorable consideration to an applicant that has historically provided a higher annual percentage of un-reimbursed services to indigent and charity patients.

(d) An applicant for a new or expanded service shall foster an environment that assures access to individuals unable to pay, regardless of payment source or circumstances, by the following:

1. providing a written policy regarding the provision of any services provided by or on behalf of the applicant that stipulates that any such services shall be provided regardless of race, age, sex, creed, religion, disability, or patient's ability to pay, and documentation or evidence that the applicant has a service history reflecting the principles of such a policy; and

2. providing a written commitment that services for indigent and charity patients will be offered at a standard which meets or exceeds five percent (5%) of annual, adjusted gross revenues of the PET scan service; or

3. providing a written commitment to participate in Medicaid, Peach Care and Medicare programs, to the extent such programs reimburse for PET scan services, and to accept any Medicaid-, Peach Care- and/or Medicare-eligible patient for services;

4. providing a written commitment that the applicant, subject to good faith negotiations, will participate in any state health benefits insurance programs for which the service is deemed eligible; and

5. providing documentation of the past record of performance of the applicant, and any facility in Georgia owned or operated by the applicant's parent organization, of providing services to Medicare, Medicaid, and indigent and charity patients. The applicant's or its parent organization's failure to provide services at an acceptable level to Medicare, Medicaid and indigent and charity patients, and/or the failure to fulfill any previously made commitment to indigent and charity care may constitute sufficient justification to deny the application.

(e) An applicant for a new or expanded service shall provide evidence of the ability to meet the following quality of care standards:

1. Document certification or a plan for securing certification for operation of a unit from the Georgia Department of Natural Resources.

2. Document that the unit proposed for purchase is approved for use by the U.S. Food and Drug Administration and for reimbursement by the Center for Medicare and Medicaid Services.

3. Document that the service will function as a component of a comprehensive diagnostic service and that appropriate referral to treatment and follow-up will be provided. The applicant must have accessible the following modalities and capabilities on site or through agreements, as evidenced by documentation provided at the time of application: computed tomography, magnetic resonance imaging, nuclear medicine, and conventional radiography.

4. Document that the PET service shall be under the direction of a physician who is board certified in nuclear medicine or diagnostic radiology; and is licensed as an authorized user of radioactive materials in accordance with the Rules of the Georgia Department of Natural Resources.

5. Document that the PET services has arrangements with board-certified interpreting physician(s) that are licensed in the State of Georgia.

6. Document the training and experience in PET scan services of the physician, nuclear medicine technologist, and radiology technologist. Such personnel shall be certified by appropriate national accreditation bodies.

7. Document fully the safe and timely access to radiopharmaceuticals.

(f) An applicant for a new or expanded service shall provide evidence of the ability to meet the following continuity of care standards:

1. Document that the applicant provides or has signed emergency transfer agreements and arrangements with one or more acute care hospital(s) located within the applicant's health planning area or in the case where the nearest acute care hospital is located in an adjacent health planning area, the nearest acute care hospital.

2. Document a referral system that includes a feedback mechanism for communicating scan results and any other pertinent patient information to the referring physician.

3. Document that the applicant will maintain current listings of appropriate clinical indications for PET procedures and will provide such listings to referring physicians and patients.

4. Document how medical emergencies will be managed in conformity with accepted medical practice.

(g) An applicant for a new or expanded service shall agree to provide the Department with all requested information and statistical data related to the operation and provision of services and to report that data to the Department in the time and format requested by the Department.

Cite as Ga. Comp. R. & Regs. R. 111-2-2-.41

AUTHORITY: O.C.G.A. §§ 31-2 et seq., 31-6 et seq.

HISTORY: Original Rule entitled "Specific Review Considerations for Positron Emission Tomography Units" adopted. F. Dec. 16, 2004; eff. Jan. 5, 2005.

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Note: Rule 111-2-2-.41, the incorrect version of the Rule was inadvertently filed (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) and appeared on the Rules and Regulations website April 28, 2022 through March 12, 2023. The correct version, as promulgated and adopted on March 10, 2022, was updated on the Rules and Regulations website March 13, 2023, the original filed and effective dates (i.e., F. Mar. 11, 2022; eff. Mar. 31, 2022.) were retained, as requested by the Agency. Effective March 10, 2023.

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Department 111. RULES OF DEPARTMENT OF COMMUNITY HEALTH

Chapter 111-8. HEALTHCARE FACILITY REGULATION

Subject 111-8-2. RULES AND REGULATIONS FOR ADULT RESIDENTIAL MENTAL HEALTH PROGRAMS

111-8-2-.01 Authority

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

Cite as Ga. Comp. R. & Regs. R. 111-8-2-.01

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

HISTORY: Original Rule entitled "Authority" adopted. F. Dec. 10, 2024; eff. Dec. 30, 2024.

111-8-2-.02 Purpose

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

Cite as Ga. Comp. R. & Regs. R. 111-8-2-.02

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

HISTORY: Original Rule entitled "Purpose" adopted. F. Dec. 10, 2024; eff. Dec. 30, 2024.

111-8-2-.03 Definitions

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

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

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

(3) "Applicant" means any individual affiliated with the governing body submitting an application to operate a program.

(4) "Department" means the Georgia Department of Community Health.

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

(6) "Client" means a person seeking and obtaining services at a program, unless otherwise specified.

(7) "License" or "permit" means the official permit issued by the department which authorizes the holder to operate a program.

(8) "Licensee" means the holder of a program license.

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

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

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

(12) "Program" means the ARHMP as defined in these rules and regulations.

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

Cite as Ga. Comp. R. & Regs. R. 111-8-2-.03

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

HISTORY: Original Rule entitled "Definitions" adopted. F. Dec. 10, 2024; eff. Dec. 30, 2024.

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

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

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

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

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

(5) The words "sanitorium," "sanitarium" and "hospital" shall not be used in the official title or marketing materials of any program permitted under the provisions of these rules and regulations.

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

(a) The services available in the program and provide direction on how clients may access such services.

(b) Admissions, discharges and transfers which ensure that the program does not admit or retain clients who need more care than the program is authorized for or capable of providing.

(c) A code of conduct and statement of rights for all clients in accordance with Ga. Comp. R. & Regs. r. 111-8-2-.15.

(d) Payment for services, including optional services, and refund policy when a client is transferred or discharged.

(e) Training and ongoing evaluation of staff, including offerings of any specialized training.

(f) Program rules applicable to staff and clients and their enforcement.

(g) Protecting the rights of the staff and clients as set forth in these rules.

(h) Medication management, controls, procurement and the professional oversight provided for such services.

(i) Health and hygiene requirements for the program, clients, and staff, including but not limited to, issues relating to illness and infection control, work policies and return to work policies, food-borne illnesses and reportable diseases. The policy shall also include any restrictions on a client's ability to utilize designated substances, such as nicotine and caffeine, and the program's expectations regarding same.

(j) Clear instructions for method of reporting and investigation of claims of abuse, neglect, harassment, discrimination, or exploitation of clients and staff. Furthermore, the policies and procedures shall detail requirements for the reporting of accidents, injuries, voluntary discharge from the program, and changes in clients' conditions and status to family members, legal surrogates, and required parties.

(k) Discipline procedures for handling conduct which is inconsistent with the policies of the program committed by staff, and circumstances which may lead to discharge by the program.

(l) Emergency preparedness, drills and evacuation requirements.

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

(n) The right of clients to receive visitors and responsibilities and obligations regarding visitor access.

(o) The right of clients to use electronic equipment including but not limited to, mobile phones, computers, tablets, televisions, audio equipment, video game devices, and other equipment utilized for entertainment.

(p) The safety and security precautions that will be employed by the program to protect clients from harm from self, other clients and staff.

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

(r) Procedures ensuring the confidentiality of client records and security measures to ensure that all client records are maintained on a confidential basis.

Cite as Ga. Comp. R. & Regs. R. 111-8-2-.04

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

HISTORY: Original Rule entitled "Governing Body and Administration" adopted. F. Dec. 10, 2024; eff. Dec. 30, 2024.

111-8-2-.05 Application for Permit

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

(2) No application for licensure will be acted upon by the department unless it has been determined to be complete, including all required attachments and fees due the department, as specified in the Rules and Regulations for General Licensing and Enforcement Requirements, Ga. Comp. R. & Regs. r. 111-8-25.

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

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

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

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

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

(8) Proof of compliance with all applicable federal and state laws for the handling and dispensing of medications, and all state and local health, safety, sanitation, building, and zoning codes shall be provided to the department as specified in the application.

(9) The application and license are subject to all requirements and obligations set forth in the department's Rules and Regulations for General Licensing and Enforcement Requirements, Ga. Comp. R. & Regs. r. 111-8-25.

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

Cite as Ga. Comp. R. & Regs. R. 111-8-2-.05

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

HISTORY: Original Rule entitled "Application for Permit" adopted. F. Dec. 10, 2024; eff. Dec. 30, 2024.

111-8-2-.06 License Requirements

(1) On and after July 1, 2025, no governing body shall operate a program without having a valid license or provisional license issued pursuant to these rules.

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

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

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

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

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

(c) The permit is suspended or revoked.

(5) A program must not serve more clients than its approved licensed capacity, which is listed within the permit issued by the department.

(6) A program must provide care as authorized by law and these rules.

(7) The program must provide written notice to the department and all clients of the following circumstances:

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

(b) a minimum of thirty (30) days prior written notice of any impending change of ownership. The notice to the department shall be in the form of an application for license pursuant to these rules which must be approved by the department before the permit is issued to the new owner(s).

(8) The department may accept proof of deemed status accreditation by an accreditation body or certifying authority recognized and approved by the department to demonstrate compliance with Department's licensure requirements, provided that such certification or accreditation constitutes compliance with standards that are substantially equivalent to these rules.

Cite as Ga. Comp. R. & Regs. R. 111-8-2-.06

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

HISTORY: Original Rule entitled "License Requirements" adopted. F. Dec. 10, 2024; eff. Dec. 30, 2024.

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

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

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

Cite as Ga. Comp. R. & Regs. R. 111-8-2-.07

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

HISTORY: Original Rule entitled "Provisional License; Terms" adopted. F. Dec. 10, 2024; eff. Dec. 30, 2024.

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

(1) Admission Criteria.

(a) Mental Illness. In order to be admitted to a program, a client must meet the definition of a mentally ill person. Mentally ill persons applying for admission and thereafter receiving services from a program are referred to within these rules and regulations as "clients," or "clients receiving services" or similar designation.

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

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

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

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

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

(c) Contain a statement that clients and their representatives or legal surrogates shall be informed, in writing, at least 30 days prior to any increase in established charges related to the provision of personal services and at least 60 days prior to any increase in charges for room and board.

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

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

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

(g) Contain provisions regarding the program's refund policy when a client dies, is transferred or discharged.

(h) Contain a statement that a client may not be required to perform services for the program.

(i) Contain the program policies and procedures for clients receiving treatment.

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

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

(l) The program must provide the client and representative or legal surrogate, if any, with a signed copy of the agreement. A copy signed by both parties (client and administrator or on-site manager) must be retained in the client's file and maintained by the administrator of the program.

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

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

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

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

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

(c) A direct psychiatric evaluation of each client shall be completed by a physician or psychiatrist upon admission to include a mental status examination which includes detailed behavioral descriptions, including symptoms (not summary conclusions), and concise evaluation of cognitive functioning. A diagnosis, made by the physician or psychiatrist in accordance with the current edition of the American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders shall be recorded in the client's clinical record.

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

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

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

(5) Medical Care.

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

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

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

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

(6) Treatment Plans. The program shall work with the client to develop a treatment plan which has objectives and action steps written for the client in behavioral terms. The objectives shall be related directly to one or more goals in the client's treatment plan. The treatment plan shall be initiated with documented input from the client receiving services and signed by the responsible physician or psychiatrist or other mental health professional privileged by policies and procedures within 48 hours of admission. The treatment plan shall be fully developed within 10 days of admission and must contain short-term treatment objectives stated in behavioral terms, relative to the long-term view and goals in the treatment plan, and a description of the type and frequency of services to be provided in relation to treatment objectives. The plan shall be reviewed with the client and updated at least every 30 days. A copy of the plan shall be signed by and provided to the client. A new aftercare plan shall be developed with and shared with the client prior to discharge from the program.

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

(8) Required ARMHP Services.

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

1. Twenty-four hour per day supervision;

2. Client, group, and family counseling services directed toward alleviating the symptomatic behavior which required admission to a program

3. Medical and psychiatric treatment provided by a licensed physician or psychiatrist;

4. Social and recreational activities, inside and outside the context of the program;

5. Referral arrangements with crisis stabilization units, other psychiatric treatment facilities, and hospital emergency services, which include but are not limited to, a written process and adequate staff to facilitate transfer of a client to such facilities and referral to less restrictive, nonresidential treatment services, when appropriate, and

6. Provision of or access to transportation in order to accomplish emergent and non-emergent transfers and to meet the service needs of clients served.

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

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

(d) Laboratory Services.

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

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

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

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

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

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

(e) Discharge and Continuity of Care.

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

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

(3) Discharge Summary. The discharge summary shall include the initial formulation and diagnosis, clinical summary, final formulation, and final primary and secondary diagnoses, the psychiatric and physical categories. The final formulation shall reflect the general observations and understanding of the client's condition initially, during appraisal of the fundamental needs of the client. All relevant discharge diagnoses should be recorded and coded in the standard nomenclature of the current "Diagnostic and Statistical Manual of Mental Disorders," published by the American Psychiatric Association, and the latest edition of the "International Classification of Diseases," regardless of the use of other additional classification systems. Records of discharged clients shall be completed following discharge within a reasonable length of time, and not to exceed fifteen (15) days. In the event of death, a summation statement shall be added to the record either as a final progress note or as a separate statement. This final note shall take the form of a discharge summary and shall include circumstances leading to death. All discharge summaries must be signed by a physician who treated the client.

Cite as Ga. Comp. R. & Regs. R. 111-8-2-.08

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

HISTORY: Original Rule entitled "Admission and Discharge, Care, and Services" adopted. F. Dec. 10, 2024; eff. Dec. 30, 2024.

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

(1) Required Approvals.

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

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

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

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

(4) Nurses' Station.

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

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

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

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

(6) Sleeping Areas.

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

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

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

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

(7) Lavatory and Bathing Facilities.

(a) There shall be at least one lavatory (water basin and toilet) with hot and cold water for every six clients or fraction thereof. Lavatories that contain more than one toilet shall contain stalls for client privacy. All lavatories shall be properly ventilated.

(b) There shall be at least one shower or bathtub with hot and cold water for every ten clients or fraction thereof. Bathtubs and shower stalls shall be equipped with non-slip surfaces.

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

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

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

(11) Premises. All grounds, space, and facilities, both those within the program and those regularly used by clients as an integral part of the program, shall be kept clean and free from hazards to health and safety and from litter.

(12) The program shall be designed to provide an outdoor space with secure, controlled access in an environment that makes reasonable efforts to provide privacy for the clients receiving services.

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

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

(15) Off-site Residences. Facilities which provide off-site residences as part of the program must ensure that the residences also meet the above requirements, as well as the staffing ratios in Ga. Comp. R. & Regs. r. 111-8-2-.10(5)(d). The off-site residence must be within reasonable driving distance of the treatment location, not to exceed 5 miles.

Cite as Ga. Comp. R. & Regs. R. 111-8-2-.09

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

HISTORY: Original Rule entitled "Minimum Building and Functional Design Standards" adopted. F. Dec. 10, 2024; eff. Dec. 30, 2024.

111-8-2-.10 Staff

(1) Medical Director. Each ARMHP must have a medical director. The medical director must be a psychiatrist who is licensed to practice in this State and who is board certified by the American Board of Psychiatry and Neurology. The medical director is responsible for providing or supervising all psychiatric care and treatment at the program and shall retain responsibility for the range and quality of services provided at the program.

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

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

(4) Minimum Required Staffing. The program must provide sufficient trained staff to meet the health and safety needs of the clients. At a minimum, each ARMHP shall have the following clients on staff:

(a) Psychiatrist, or other physician when the psychiatrist is unavailable.

(b) Registered professional nurse or advanced practice nurse practitioner.

(c) Clinical case management staff to facilitate care and safe discharge planning.

(d) Mental health technicians or similarly trained paraprofessionals or certified peer specialists.

(5) Minimum Staffing Hours.

(a) The medical director must be physically present at the program on a regular basis sufficient to maintain professional responsibility for the provision of mental health services at the program.

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

(c) A physician or qualified mental health professional must be available for client consultation at all times the program is operational.

(d) Each program must maintain a staffing ratio of not less than 1 trained staff person (mental health professional, nurse, paraprofessional or certified peer specialist) for every 12 clients at all times the program is operational.

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

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

(8) The medical responsibility for each client will be vested in a licensed physician who oversees all medical services provided by the program.

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

(10) Staff Training and Orientation. Prior to working with clients, all staff who provide treatment and services shall be oriented in accordance with these rules and shall thereafter receive additional training in accordance with these rules.

(a) Orientation shall include instruction in:

1. The program's written policies and procedures regarding its program purpose and description; client rights, responsibilities, and complaints; confidentiality; and other policies and procedures that are relevant to the staff

member's range of duties and responsibilities, including the use of universal precautions for infection control, use of behavior management and emergency safety interventions, and information about HIV/AIDS;

2. The staff member's assigned duties and responsibilities; and

3. Reporting client progress and problems to supervisory personnel and procedures for handling medical emergencies or other incidents that affect the delivery of treatment or services.

4. Additional training shall be provided annually for each staff member who provides treatment services to clients. Such training shall be in subjects that relate to the staff member's assigned duties and responsibilities and include a minimum of twenty (20) clock hours.

Cite as Ga. Comp. R. & Regs. R. 111-8-2-.10

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

HISTORY: Original Rule entitled "Staff" adopted. F. Dec. 10, 2024; eff. Dec. 30, 2024.

111-8-2-.11 Criminal Background Checks

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

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

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

Cite as Ga. Comp. R. & Regs. R. 111-8-2-.11

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

HISTORY: Original Rule entitled "Criminal Background Checks" adopted. F. Dec. 10, 2024; eff. Dec. 30, 2024.

111-8-2-.12 Medication

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

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

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

(a) The MAR must include the name of the specific client, any known allergies, the name and telephone number of the client's health care provider, the name, strength, route of administration and specific directions, including a summary of severe side effects and adverse reactions for use of each medication, and a chart for staff who provide

assistance or administration to record initials, time and date when medications are taken, refused or a medication error is identified (e.g. missed dosage).

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

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

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

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

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

(5) Timely Management of Medication Procurement. The program 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 program must notify the physician of the unavailability of the prescription and request direction.

(6) Storage of Medications.

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

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

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

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

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

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

Cite as Ga. Comp. R. & Regs. R. 111-8-2-.12

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

HISTORY: Original Rule entitled "Medication" adopted. F. Dec. 10, 2024; eff. Dec. 30, 2024.

111-8-2-.13 Food and Nutrition

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

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

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

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

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

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

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

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

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

Cite as Ga. Comp. R. & Regs. R. 111-8-2-.13

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

HISTORY: Original Rule entitled "Food and Nutrition" adopted. F. Dec. 10, 2024; eff. Dec. 30, 2024.

111-8-2-.14 Disaster Preparedness Plan

Each ARMHP shall have a Disaster Preparedness Plan which meets the requirements of Ga. Comp. R. & Regs. r. 111-8-16-.01, et seq.

Cite as Ga. Comp. R. & Regs. R. 111-8-2-.14

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

HISTORY: Original Rule entitled "Disaster Preparedness Plan" adopted. F. Dec. 10, 2024; eff. Dec. 30, 2024.

111-8-2-.15 Client Rights and Grievances

(1) Admission to a program is voluntary. A client, in the absence of a court order, may voluntarily discharge from the program at any time.

(2) The program must ensure that its clients enjoy the rights and responsibilities listed herein:

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

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

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

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

(e) Each client must have the right to:

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

2. Choose activities and schedules consistent with the program's treatment services and the client's interests and assessments.

(f) Each client may take part in planning his or her own treatment at the program and know the benefits, risks, and/or side effects of all medications and treatments.

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

(h) Each client has the right to receive and refuse to receive visitors subject to reasonable safety protocols.

(i) Each client must have the right to associate and communicate freely and privately with persons and groups of the client's choice without being censored by staff subject to the limited exception in Ga. Comp. R. & Regs. r. 111-8-2-.16(d)(8).

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

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

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

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

(n) Each client has the right to use, keep and control his or her own personal property and possessions in the immediate living quarters, except to the extent a client's use of his or her property would interfere with the safety or

health of other clients or pose an immediate and serious safety risk for the client. Each client has the right to reasonable safeguards for the protection and security of his or her personal property and possessions brought into the program.

(o) Each client has a right to send and receive mail and other communications with persons outside the program.

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

(q) Each client has the right to manage his or her own financial affairs, including the right to keep and spend his or her own money unless that client has been adjudicated incompetent by a court of competent jurisdiction or the client has a legal surrogate handling financial affairs on their behalf.

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

(s) Each client has the right to choose and retain the services of a personal physician and any other health care professional or service. No program is permitted to interfere with the client's right to receive from the client's attending physician complete and current information concerning the client's diagnosis, treatment and prognosis. Each client and his or her representative or legal surrogate, if any, has the right to be fully informed about care and of any changes in that care and the right of access to all information in medical records retained in the program.

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

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

(v) Each client has the right to inspect and make a copy of his or her own treatment records on request consistent with State law. Each client has the right to confidential treatment of personal information in the client file.

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

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

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

Cite as Ga. Comp. R. & Regs. R. 111-8-2-.15

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

HISTORY: Original Rule entitled "Client Rights and Grievances" adopted. F. Dec. 10, 2024; eff. Dec. 30, 2024.

111-8-2-.16 Behavior Management and Emergency Safety Interventions

(1) **Behavior Management**

(a) The program shall develop and implement policies and procedures on behavior management.

(b) Program staff shall be made aware of each client's known or apparent medical and psychological conditions and family history to ensure that the staff have adequate knowledge to deliver safe and healthy care to the client.

(c) Behavior management policies and procedures shall incorporate the following minimum requirements:

1. Behavior management principles and techniques shall be used in accordance with the client treatment plan and written policies and procedures governing service expectations, treatment goals, safety, security, and these rules and regulations.

2. Behavior management shall be limited to the least restrictive appropriate method, as described in the client's treatment plan and in accordance with the prohibitions as specified in these rules and regulations.

(d) Behavior management techniques shall be administered by trained staff and shall be appropriate for the client's age, intelligence, emotional makeup and past experience. The following forms of behavior management shall not be used by program staff with clients receiving services through the program:

1. Assignment of excessive or unreasonable work tasks;

2. Denial of meals and hydration;

3. Denial of sleep;

4. Denial of shelter, clothing, or essential personal needs;

5. Denial of essential program services;

6. Verbal abuse, ridicule, or humiliation;

7. Manual holds, chemical restraints, or mechanical restraints not used appropriately as emergency safety interventions;

8. Denial of communication and visits, except when a temporary peer restriction is implemented based on a clinical assessment as part of the treatment plan;

9. Corporal punishment; and

10. Seclusion or confinement of a client.

(e) Clients shall not be permitted to participate in the behavior management of other clients or to discipline other clients, except as part of an organized therapeutic self-governing program in accordance with accepted standards of clinical practice that is conducted in accordance with written policy and is supervised directly by designated staff.

(f) All forms of behavior management or emergency safety interventions used by staff shall also be documented in case records in order to ensure that such records reflect behavior management problems.

(g) The program shall take appropriate corrective action when the program staff become aware of or observe the use of prohibited forms of behavior management. Documentation of the incident and the corrective action taken by the program shall be maintained in the case records of the client.

(2) **Emergency Safety Interventions**.

(a) Emergency safety interventions may be used only by staff trained in the proper use of such interventions when it can be reasonably anticipated from a client's behavioral history, that a client may require the use of emergency safety interventions to keep either the client or others safe from immediate physical harm, and less restrictive means of dealing with the injurious behavior have not proven successful or may subject the client or others to greater risk of injury.

(b) Program staff working with such client shall be trained in emergency safety interventions utilizing a nationally recognized training program in emergency safety interventions which has been approved by the department.

(c) Emergency safety interventions shall not include the use of any restraint or manual hold that would potentially impair the client's ability to breathe or has been determined to be inappropriate for use on a particular client due to a documented medical or psychological condition.

(d) The program shall have written policies and procedures for the use of emergency safety interventions, a copy of which shall be provided to and discussed with each client or legal guardian, if applicable, prior to or at the time of admission. Emergency safety interventions policies and procedures shall include:

1. Provisions for the documentation of an assessment at admission and at each annual exam by the client's physician, a physician's assistant, or a registered nurse with advanced training working under the direction of a physician, or a public health clinic which states that there are no medical issues that would be incompatible with the appropriate use of emergency safety interventions on that client. Such assessment and documentation must be re-evaluated following any significant change in the client's medical condition; and

2. Provisions for the documentation of each use of an emergency safety intervention including:

(i) Date and description of the precipitating incident;

(ii) Description of the de-escalation techniques used prior to the emergency safety intervention, if applicable;

(iii) Environmental considerations;

(iv) Names of staff participating in the emergency safety intervention;

(v) Any witnesses to the precipitating incident and subsequent intervention;

(vi) Exact emergency safety intervention used;

(vii) Beginning and ending time of the intervention;

(viii) Outcome of the intervention;

(ix) Detailed description of any injury arising from the incident or intervention; and

(x) Summary of any medical care provided.

3. Provisions for prohibiting manual hold use by any employee not trained in prevention and use of emergency safety interventions.

(e) Emergency safety interventions may be used to prevent runaways only when the client presents an imminent threat of physical harm to self or others, or as specified in the client treatment plan.

(f) Program staff shall be aware of each client's medical and psychological conditions (e.g. obvious health issues, list of medications, history of physical abuse, etc.), as evidenced by written acknowledgement of such awareness, to ensure that the emergency safety intervention that is utilized does not pose any undue danger to the physical or mental health of the client.

(g) Clients shall not be allowed to participate in the emergency safety intervention of other clients.

(h) Immediately following the conclusion of the emergency safety intervention and hourly thereafter for a period of at least four hours where the client is with a staff member, the client's behavior will be assessed, monitored, and documented to ensure that the client does not appear to be exhibiting symptoms that would be associated with an injury.

(i) At a minimum, the emergency safety intervention program that is utilized shall include the following:

1. Techniques for de-escalating problem behavior including client and staff debriefings;

2. Appropriate use of emergency safety interventions;

3. Recognizing aggressive behavior that may be related to a medical condition;

4. Awareness of physiological impact of a restraint on the client;

5. Recognizing signs and symptoms of positional and compression asphyxia and restraint associated cardiac arrest;

6. Instructions on how to monitor the breathing, verbal responsiveness, and motor control of a client who is the subject of an emergency safety intervention;

7. Appropriate self-protection techniques;

8. Policies and procedures relating to using manual holds, including the prohibition of any technique that would potentially impair a client's ability to breathe;

9. Agency policies and reporting requirements;

10. Alternatives to restraint;

11. Avoiding power struggles;

12. Escape and evasion techniques;

13. Time limits for the use of restraint;

14. Process for obtaining approval for continual restraints;

15. Procedures to address problematic restraints;

16. Documentation;

17. Investigation of injuries and complaints;

18. Monitoring physical signs of distress and obtaining medical assistance; and

19. Legal issues.

(j) Emergency safety intervention training shall be in addition to the annual training required under these rules and shall be documented in the staff member's personnel record.

(k) All actions taken that involve utilizing an emergency safety intervention shall be recorded in the client's case record showing the cause for the emergency safety intervention, the emergency safety intervention used, and, if restraints are needed, approval by the medical director or other physician with responsibility for the diagnosis and treatment of the client's behavior.

(l) Programs shall submit to the department electronically in a format acceptable to the department, within 24 hours whenever the program becomes aware of an incident which results in injury to a client requiring medical treatment beyond first aid that is received by a client as a result of or in connection with any emergency safety intervention.

1. For any program with a licensed capacity of 20 clients or more, any 30-day period in which three or more instances of emergency safety interventions of a specific client occurred and/or whenever the program has had a total of 10 emergency safety interventions for all clients in care within the 30-day period; and

2. For any program with a licensed capacity of less than 20 clients, any 30-day period in which three or more instances of emergency safety interventions of a specific client occurred and/or whenever the program has had a total of five instances for all clients in care within the 30-day period.

(m) Programs shall submit a written report to the program's medical director on the use of any emergency safety intervention immediately after the conclusion of the intervention and, if the client has an assigned legal guardian, shall further notify the client's legal guardian regarding the use of the intervention. A copy of such report shall be maintained in the client's file.

(a) At least once per quarter, the program, utilizing a master agency restraint log and the client's case record, shall review the use of all emergency safety interventions for each client and staff member, including the type of intervention used and the length of time of each use, to determine whether there was a clinical basis for the intervention, whether the use of the emergency safety intervention was warranted, whether any alternatives were considered or employed, the effectiveness of the intervention or alternative, and the need for additional training. Written documentation of all such reviews shall be maintained. Where the program identifies opportunities for improvement as a result of such reviews or otherwise, the program shall implement these changes through an effective quality improvement plan.

(o) All program staff who may be involved in the use of emergency safety interventions shall have evidence of having satisfactorily completed a nationally recognized training program for emergency safety interventions to protect clients and others from injury, which has been approved by the department and taught by an appropriately certified trainer in such program.

(p) Manual Holds.

1. Emergency safety interventions utilizing manual holds require at least one trained staff member to carry out the hold. Emergency safety interventions utilizing prone restraints require at least two trained staff members to carry out the hold.

2. Emergency safety interventions shall not include the use of any restraint or manual hold that would potentially impair the client's ability to breathe or has been determined to be inappropriate for use on a particular client due to a documented medical or psychological condition.

3. When a manual hold is used upon any client whose primary mode of communication is sign language, the client shall be permitted to have his or her hands free from restraint for brief periods during the intervention, except when such freedom may result in physical harm to the client or others.

4. If the use of a manual hold exceeds 15 consecutive minutes, the medical director or his or her designee who has been fully trained in the program's emergency safety intervention plan, shall be contacted for an evaluation of whether the continuation of the manual hold is appropriate under the circumstances. Documentation of any consultations and outcomes shall be maintained for each application of a manual hold that exceeds 15 minutes. Manual holds shall not be permitted to continue if the restraint is determined to pose an undue risk to the client's health given the client's physical or mental condition.

5. A manual hold may not continue for more than 30 minutes at any one time without the consultation as specified in subparagraph (4) of this subparagraph, and under no circumstances may a manual hold be used for more than one hour total within a 24-hour period.

6. If the use of a manual hold on a client reaches a total of one hour within a 24-hour period, the staff shall reconsider alternative treatment strategies, document same, and consider notifying the authorities or transporting the client to a hospital for evaluation.

7. The client's breathing, verbal responsiveness, and motor control shall be continuously monitored during any manual hold. Written summaries of the monitoring by a trained staff member not currently directly involved in the manual hold shall be recorded every 15 minutes during the duration of the restraint. If only one trained staff member is involved in the restraint and no other staff member is available, written summaries of the monitoring of the manual hold shall be recorded as soon as is practicable, but no later than one hour after the conclusion of the restraint.

Cite as Ga. Comp. R. & Regs. R. 111-8-2-.16

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

HISTORY: Original Rule entitled "Behavior Management and Emergency Safety Interventions" adopted. F. Dec. 10, 2024; eff. Dec. 30, 2024.

111-8-2-.17 Record Maintenance and Confidentiality Requirements

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

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

Cite as Ga. Comp. R. & Regs. R. 111-8-2-.17

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

HISTORY: Original Rule entitled "Record Maintenance and Confidentiality Requirements" adopted. F. Dec. 10, 2024; eff. Dec. 30, 2024.

111-8-2-.18 Incident Reports

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

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

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

(a) any death of a client seeking treatment at the program;

(b) any serious injury to a client that requires medical attention;

(c) any injury to a client that requires medical attention beyond first aid that is received by the client as a result of or in connection with any emergency safety intervention;

(d) any client that is missing from the program without notice of voluntary discharge;

(e) any rape, assault, any battery of a client;

(f) an external disaster or other emergency situation that affects the continued safe operation of the program;

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

(h) when the program staff determines that a client poses a clear and present danger to any client within the program, its staff, and/or the general public.

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

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

(b) the date of the incident and the date the program 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 program to ensure against the replication of the incident.

Upon receipt of the incident report, the department may request additional information from the program and/or initiate a complaint investigation of the incident.

Cite as Ga. Comp. R. & Regs. R. 111-8-2-.18

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

HISTORY: Original Rule entitled "Incident Reports" adopted. F. Dec. 10, 2024; eff. Dec. 30, 2024.

111-8-2-.19 Enforcement of Licensing Requirements

(1) A program that fails to comply with licensing requirements contained in these rules and the Rules and Regulations for General Licensing and Enforcement Requirements, Ga. Comp. R. & Regs. r. 111-8-25, is subject to civil and administrative actions brought by the department to enforce licensing requirements as provided by law and rules. Such actions will be initiated in compliance with the Georgia Administrative Procedures Act, O.C.G.A. § 50-13-1 et seq., O.C.G.A. § 31-2-8, and the Rules and Regulations for General Licensing and Enforcement Requirements, Ga. Comp. R. & Regs. r. 111-8-25-.01 et seq.

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

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

Cite as Ga. Comp. R. & Regs. R. 111-8-2-.19

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

HISTORY: Original Rule entitled "Enforcement of Licensing Requirements" adopted. F. Dec. 10, 2024; eff. Dec. 30, 2024.

111-8-2-.20 Inspections

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

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

Cite as Ga. Comp. R. & Regs. R. 111-8-2-.20

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

HISTORY: Original Rule entitled "Inspections" adopted. F. Dec. 10, 2024; eff. Dec. 30, 2024.

111-8-2-.21 Unlicensed Adult Residential Mental Health Programs; Penalties

(1) A program shall be deemed to be an "unlicensed ARMHP" if it does not have a valid ARMHP license and is not exempt from licensure under these Rules and:

(a) The program is providing services; or

(b) The program represents itself as an ARMHP.

(2) Any program alleged to be operating as an unlicensed ARMHP shall be assessed by the department, after opportunity for hearing in accordance with the provisions of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," a civil penalty in the amount of $100.00 per bed per day for each day of violation. The department shall send a notice by certified mail or statutory overnight delivery stating that licensure is required and the

department's intent to impose a civil penalty. Such notice shall be deemed to be constructively received on the date of the first attempt to deliver such notice by the United States Postal Service. The department shall take no action to collect such civil penalty until after opportunity for a hearing.

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

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

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

Cite as Ga. Comp. R. & Regs. R. 111-8-2-.21

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

HISTORY: Original Rule entitled "Unlicensed Adult Residential Mental Health Programs; Penalties" adopted. F. Dec. 10, 2024; eff. Dec. 30, 2024.

111-8-2-.22 Role of Disability Services Ombudsman

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

Cite as Ga. Comp. R. & Regs. R. 111-8-2-.22

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

HISTORY: Original Rule entitled "Role of Disability Services Ombudsman" adopted. F. Dec. 10, 2024; eff. Dec. 30, 2024.

111-8-2-.23 Waivers and Variances

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

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

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

(c) Experimental Variance or Waiver. The department may grant waivers and variances to allow experimentation and demonstration of new and innovative approaches to delivery of services upon a showing by the applicant or petitioner that the intended protections afforded by the rule or regulation which is the subject of the request are met and that the innovative approach has the potential to improve service delivery.

Cite as Ga. Comp. R. & Regs. R. 111-8-2-.23

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

HISTORY: Original Rule entitled "Waivers and Variances" adopted. F. Dec. 10, 2024; eff. Dec. 30, 2024.

Department 150. RULES OF GEORGIA BOARD OF DENTISTRY

Chapter 150-5. DENTAL HYGIENE

150-5-.08 Use of a Dental Diode Laser by a Dental Hygienist

(1) A dental hygienist, under the direct supervision of a Georgia licensed dentist may use a dental diode laser limited to the use of bacterial reduction/disinfection of the gingival sulcus at settings that preclude hard and soft tissue removal except for incidental gingival curettage, provided:

(a) Prior to utilizing a dental diode laser, the dental hygienist must successfully complete interactive didactic and clinical training which includes laser safety, infection control, patient management and the operation of the specific laser(s) utilized in the dental practice. Training must consist of not less than 8 hours of instruction, and must be obtained through a course provided or recognized by any of the following organizations, a successor organization thereof, or approved by the Board:

1. The Commission on Dental Accreditation of the American Dental Association;

2. The American Dental Association Continuing Education Recognition Program; or

3. The Academy of General Dentistry Program Approval for Continuing Education.

(b) A dental hygienist utilizing a dental diode laser shall maintain evidence of required training which shall be prominently displayed at the location where the dental hygienist is authorized to utilize a dental diode laser.

(c) A dental hygienist utilizing a dental diode laser shall complete two (2) hours of continuing education every two (2) years in the use of dental diode lasers in the practice of dental hygiene.

(d) All lasers shall be used in accordance with accepted safety guidelines.

(2) When utilizing a dental diode laser pursuant to this Section, a dental hygienist shall document the following information in the patient's record:

(a) the type of laser utilized, including the wavelength of the laser;

(b) the settings used, such as pulse or continuous wave, and the power setting;

(c) local anesthesia used, if any; and

(d) the procedure attempted/performed, including details as to whether hard or soft tissue was removed.

Cite as Ga. Comp. R. & Regs. R. 150-5-.08

AUTHORITY: O.C.G.A §§ 43-11-1**,** 43-11-7**,** 43-11-9**,** 43-11-73.1**,** 43-11-74**.**

HISTORY: Original Rule entitled "Use of a Dental Diode Laser by a Dental Hygienist." F. Dec. 4, 2024; eff. Dec. 24, 2024.

Department 150. RULES OF GEORGIA BOARD OF DENTISTRY

Chapter 150-13. SEDATION PERMITS

150-13-.01 Conscious Sedation Permits

(1) When the intent is minimal sedation (anxiolysis), which is defined as a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway with unaffected ventilatory and cardiovascular function and respond normally to tactile and verbal stimulation, a permit for conscious sedation is not required.

(a) When the intent is minimal sedation for adults, the initial dosing is no more than the maximum recommended dose (MRD) of a drug that can be prescribed for unmonitored home use. Nitrous oxide/oxygen may be used in combination with a single enteral drug in minimal sedation. For adults, supplemental dosing that may be necessary for prolonged procedures should not exceed one-half of the initial drug dose and should not be administered until the dentist has determined that the clinical half-life of the initial dosing has passed. The total aggregate dose must not exceed 1.5x the MRD on the day of treatment.

(b) The use of preoperative sedatives for children (age 12 and under) except in extraordinary situations must be avoided due to the risk of unobserved respiratory obstruction during transport by untrained individuals. Children can become moderately sedated despite the intended level of minimal sedation. Should this occur, the guidelines for moderate sedation apply. For children, the American Dental Association supports the use of the American Academy of Pediatrics/American Academy of Pediatric Dentists Guidelines for Monitoring and Management of Pediatric Patients During and After Sedation for Diagnostic and Therapeutic Procedures.

(2) Understanding The Anesthesia Continuum

(a) The anesthesia continuum represents a spectrum encompassing analgesia, local anesthesia, sedation, and general anesthesia along which no single part can be simply distinguished from neighboring parts. It is not the route of administration that determines or defines the level of anesthesia administered. The location on the continuum defines the level of anesthesia administered.

(b) The level of anesthesia on the continuum is determined by the definitions listed below.

(3) Elements used to determine the level of anesthesia include the level of consciousness and the likelihood of anesthesia provider intervention(s), based upon the following patient parameters:

(a) Responsiveness;

(b) Airway;

(c) Respiratory;

(d) Cardiovascular.

(4) No dentist shall administer conscious sedation at the moderate level in Georgia in accordance with the definition of conscious sedation as defined by O.C.G.A. § 43-11-1 unless such dentist possesses a permit based on a credentials review. The permits issued are Moderate Enteral Conscious Sedation or Moderate Parenteral Conscious Sedation.

(5) Moderate Conscious Sedation is defined as a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions

are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained.

(6) Moderate Enteral Conscious Sedation is any technique of administration in which the drugs are absorbed through the gastrointestinal tract or oral mucosa, i.e. oral, rectal, and sublingual.

(a) To obtain a Moderate Enteral Conscious Sedation Permit for adults, a dentist must provide certification of the following:

1. Completion of an ADA-accredited postdoctoral training program, which affords comprehensive training necessary to administer and manage moderate enteral conscious sedation; or

2. Completion of a continuing education course approved by the board from a board approved organization, which consists of a minimum of twenty-four (24) hours of didactic instruction, of which eight (8) hours must be in-person, plus management of at least ten (10) adult patient experiences which provides competency in moderate enteral conscious sedation which may include simulated cases.

(b) To obtain a Moderate Enteral Conscious Sedation Permit for pediatric patients (age 12 and under), a dentist must provide certification of the following:

1. Completion of an ADA-accredited postdoctoral training program, which affords comprehensive training and experience in pediatric sedation commensurate with the requirements of Rule 150-13-.01(6)(b)(2), and necessary to administer and manage moderate enteral conscious sedation of pediatric patients; or

2. Completion of a continuing education course approved by the board from a board approved organization, which consists of a minimum of twenty-four (24) hours of pediatric-specific didactic instruction, of which eight (8) hours must be in-person, after adult training and ten (10) pediatric patient experiences, which include supervised administration of sedation to at least five (5) patients.

(7) Moderate Parenteral Conscious Sedation is any technique utilizing multiple sedation modalities, including intravenous, enteral, parenteral, and inhalation.

(a) To obtain a Moderate Parenteral Conscious Sedation Permit for adults, a dentist must provide certification of the following:

1. Completion of an ADA-accredited postdoctoral training program, which affords comprehensive training to administer and manage moderate parenteral conscious sedation; or

2. Completion of a continuing education course approved by the board from a board approved organization which consists of a minimum of sixty (60) hours of didactic instruction, of which twenty (20) hours must be in-person, plus management of at least twenty (20) adult patient experiences which provides competency in moderate parenteral conscious sedation.

(b) To obtain a Moderate Parenteral Conscious Sedation Permit for pediatric patients (age 12 and under), a dentist must provide certification of the following:

1. Completion of an ADA-accredited postdoctoral training program, which affords comprehensive training and experience in pediatric sedation commensurate with requirements of Rule 150-13-.01(7)(b)(2) and necessary to administer and manage moderate parenteral conscious sedation of pediatric patients; or

2. Completion of a continuing education course approved by the board from a board approved organization, which consists of a minimum of sixty (60) hours of pediatric-specific didactic instruction, of which twenty (20) hours must be in person, after adult training and twenty (20) pediatric patient experiences to include supervised administration of sedation to at least ten (10) patients.

(8) The dentist issued a permit in either Moderate Enteral Conscious Sedation or Moderate Parenteral Conscious Sedation shall maintain a properly equipped facility for the administration of such sedation, staffed with appropriately trained and supervised personnel. The facility must have equipment capable of delivering positive pressure oxygen ventilation, a pulse oximeter, suction equipment that allows aspiration of the oral and pharyngeal cavities, an operating table or chair that allows for the patient to be positioned to maintain an airway, a firm platform for cardiopulmonary resuscitation, a fail-safe inhalation system if nitrous oxide/oxygen is used, equipment necessary to establish intravascular access, equipment to continuously monitor blood pressure and heart rate, appropriate emergency drugs per ACLS or PALS protocol, a manual or automatic external defibrillator, and a recovery area with available oxygen and suction. The facility shall have continual monitoring of end tidal CO2 (expired carbon dioxide) unless invalidated by the nature of the patient, procedure, or equipment. "Continual" shall mean "repeated regularly and frequently in steady rapid succession." All of the aforementioned equipment, drugs, and supplies must be stationary and not subject to transfer from one facility to another. The applicant must submit verification that the facility meets the above requirements and shall be subject to an on-site inspection. The dentist and all support personnel must be certified in cardiopulmonary resuscitation at the basic life support healthcare provider level given by a board approved sponsor with update not to exceed two years per board rules 150-3-.08, 150-3-.09, 150-5-.04, 150-5-.05. Additionally, the dentist must have current certification in advanced cardiovascular life support (ACLS) for adult permits or pediatric advanced life support (PALS) for pediatric permits or an appropriate dental sedation/anesthesia emergency management course as approved by the board. Any dental hygienist or dental assistant, expanded or general, performing phlebotomy or venipuncture procedures must be in compliance with O.C.G.A. § 43-11-23.

(a) The dentist must take four (4) hours of continuing education every two (2) years in pharmacology, anesthesia, emergency medicine or sedation, as part of the 40 hour requirement for license renewal, to maintain certification for the Enteral and/or Parenteral Conscious Sedation Permits. Certification of this continuing education must be submitted at renewal.

(b) The Georgia Board of Dentistry shall be given a written, thirty (30) day advance notification of the relocation of a facility, the addition of a facility or significant change to the facility.

(c) When a Certified Registered Nurse Anesthetist (CRNA) is permitted to function under the direction and responsibility of a dentist for the administration of conscious sedation, the operating dentist must have completed training and hold a valid conscious sedation permit issued by the board that incorporates the level and mode of sedation administered by the CRNA.

(d) The dentist must be certified in cardiopulmonary resuscitation at the basic and advanced levels and all support personnel who provide direct hands-on patient care must be certified in cardiopulmonary resuscitation at the basic life support level given by a board approved provider with an update not to exceed two years. While any conscious sedation procedure is underway, a minimum of two support personnel certified in basic cardiopulmonary resuscitation must be present.

(9) A licensed dentist shall not delegate to a dental assistant or a dental hygienist the administration of any medication or drugs given to a patient through phlebotomy and venipuncture procedures.

(10) All conscious sedation permit holders shall comply with the facility requirements of this rule, including but not limited to monitoring and emergency equipment, drugs, and supplies, and periodic emergency training requirements for the dentist and all support personnel.

(11) Whereas there is widespread agreement that sedation is a continuum and there is a range of training for those applicants for permits, all applicants for permits for conscious sedation shall be required to provide the Board documentation of training on the use of those drugs requested in their permit application. Upon subsequent addition of new or different medications to the dentist's pharmaceutical armamentarium, and prior to beginning the use of such medications, the dentist shall submit evidence of completion of a continuing education course in the use of such medications. Such continuing education course shall comply with the requirements of Rule 150-3-.09.

(a) Nothing in this Rule is intended to restrict the pharmaceutical armamentarium of a Certified Registered Nurse Anesthetist (CRNA) when anesthesia is administered and monitored by a CRNA in conjunction with a dental procedure.

(12) Permit fees: As shown in the schedule of fees adopted by the Board of Dentistry.

(13) Renewal Fees: As shown in the schedule of fees adopted by the Board of Dentistry.

(14) Late Renewal Fees: As shown in the schedule of fees adopted by the Board of Dentistry.

(15) Mandatory Report of Morbidity or Mortality

(a) All dentists issued a permit under this rule shall submit a complete report to the board of any sedation related morbidity or mortality occurring in the course of such dentist's practice or other injury which results in temporary or permanent physical injury requiring any period of hospitalization. This report shall be filed with the board no later than 30 days following such incident and shall contain such information as the board shall deem necessary to investigate the circumstances of the incident.

(b) Any report received by the board pursuant to this rule shall be subject to the limitations on disclosure set forth in paragraph (2) of subsection (h) of O.C.G.A. § 43-11-47.

Cite as Ga. Comp. R. & Regs. R. 150-13-.01

AUTHORITY: O.C.G.A §§ 43-11-1**,** 43-11-7**,** 43-11-21**,** 43-11-21.1**.**

HISTORY: Original Rule entitled "Conscious Sedation Permits" adopted. F. Oct. 25, 1989; eff. Nov. 14, 1989.

Amended: F. Oct. 29, 1996; eff. Nov. 18, 1996.

Amended: F. Jan. 10, 2002; eff. Jan. 30, 2002.

Repealed: New Rule of same title adopted. F. Jan. 31, 2005; eff. Feb. 20, 2005.

Repealed: New Rule of same title adopted. F. Sept. 14, 2005; eff. Oct. 4, 2005.

Repealed: New Rule of same title adopted. F. Feb. 18, 2010; eff. Mar. 10, 2010.

Amended: F. Nov. 16, 2010; eff. Dec. 6, 2010.

Amended: F. May 5, 2023; eff. May 25, 2023.

Amended: F. Dec. 4, 2024; eff. Dec. 24, 2024.

Department 195. GEORGIA BOARD FOR HEALTH CARE WORKFORCE

Chapter 195-9. MEDICAL STUDENT CAPITATION PROGRAM

195-9-.01 General Definitions

(1) "Medical School" is a four year program leading to the Doctor of Medicine (M.D.) or Doctor of Osteopathic Medicine (D.O.) degree which will prepare its graduates to enter and complete graduate medical education, to qualify for licensure, to provide competent medical care, and to have the educational background necessary for continued learning.

(2) "Accredited" means a medical school has met the national standards set forth by the Liaison Committee on Medical Education or the by the American Osteopathic Association (AOA) Commission on Osteopathic College Accreditation (COCA).

(3) "Student" is an individual enrolled in a program of medical education leading to the M.D. or D.O. degree.

(4) "Georgia Resident" means to qualify as a resident of the State of Georgia for the purpose of participating in the Medical Student Capitation Program or other Board program where appropriate, an entering freshman student must show he/she has been a legal resident of Georgia for a period of at least twelve months immediately prior to certification of residency. In the event a student is identified as a potential participant after beginning a program of study, the student must demonstrate he/she was a legal resident of Georgia for a period of one year prior to entering the school. A Certification of Residency Form, as defined by the Georgia Board of Health Care Workforce, must be completed. This Form shall be notarized and signed by a judge of the highest court of the county where a student maintains his/her legal residence. Completion of this Form shall constitute sufficient proof of Georgia Residency status.

(5) "Medically Underserved" are those geographic areas of the state in which the Board determines that there will be a shortage of physicians.

(6) "Primary Care and Core Specialty Disciplines" are family medicine, internal medicine, pediatrics, obstetrics/gynecology, emergency medicine, psychiatry and general surgery.

(7) "Primary Care and Core Specialty Graduates" is the sum of all graduates from the medical school initially enrolled in primary care or core specialty residency programs during the five-year period specified in the Agreement each year.

(8) "Primary Care and Core Specialty Residency Programs" are ACGME accredited graduate medical education programs in Family Medicine, Internal Medicine (Categorical), Obstetrics/Gynecology, General Surgery, Pediatrics (Categorical), Psychiatry, Emergency Medicine, Internal Medicine/Pediatrics, or an ACGME recognized graduate medical education program in Internal Medicine/Preventive Medicine, or Internal Medicine/Family Medicine.

(9) "Initially enrolled" is the first graduate medical education program the physician is enrolled in following the award of the Doctor of Medicine degree.

(10) "Total Graduates" is the sum of all graduates receiving the Doctor of Medicine Degree or Doctor of Osteopathic Medicine Degree from the medical school during the five-year period specified in the Agreement each year. Graduates who did not enter a graduate medical education program after receiving their medical degree shall be subtracted from the total graduates.

(11) "Primary Care and Core Specialty Enrollment Rate" the quotient of primary care and core specialty graduates divided by the total graduates.

Cite as Ga. Comp. R. & Regs. R. 195-9-.01

AUTHORITY: O.C.G.A. § 49-10.

HISTORY: Original Rule entitled "General Definitions" adopted. F. Jan. 10, 2005; eff. Jan. 30, 2005.

Amended: F. Feb. 29, 2012; eff. Mar. 20, 2012.

Amended: F. Jan. 17, 2013; eff. Feb. 6, 2013.

Repealed: New Rule of same title adopted. F. Nov. 15, 2018; eff. Dec. 5, 2018.

Repealed: New Rule of the same title adopted. F. Dec. 26, 2019; eff. Jan. 15, 2020.

Amended: F. Dec. 5, 2024; eff. Dec. 25, 2024.

195-9-.02 Medical Student Capitation Program

(1) For the annual provision of medical student capitation to certain designated medical schools, the Board requires the following conditions be met:

(a) Maintenance of accreditation by the Liaison Committee on Medical Education or the by the American Osteopathic Association (AOA) Commission on Osteopathic College Accreditation (COCA).

(b) Compliance with all Board guidelines, rules and regulations,

(c) Submission of all reports, budgets, and such other documentation as may be reasonable required by the Board and/or outlined in the GBHCW's Report Guidelines.

(2) Payment Process. Based on reports submitted by the medical school, the Board shall authorize disbursement on Medical Student Capitation Program funding upon receipt of the statement of Georgia residents, invoice and other documentation required in the Agreement between the Board and the Medical School.

(a) The school shall submit a statement subject to approval by the Board from the appropriate institutional official, stating that each medical student participating in the Capitation Program under the Agreement has been deemed by the official to be a resident of the state of Georgia. Along with the statement, the Medical School shall submit invoices to the Board listing the name, medical school year, agreed upon student identifier, and the permanent addresses of the students participating in the Medical Student Capitation Program and a copy of the Certification of Residency Form for each new participant by October 15th of the Agreement period. The statement shall note the total number of Georgia residents enrolled if different from the invoices number of residents along with the total number of medical students enrolled in the Medical School during the Agreement period.

(b) The Medical School shall provide, upon graduation, a list verifying the students' specialty selection and location of residency training.

(3) State Audit. The Medical School shall be subject to an audit of the financial records relating to the Medical Student Capitation Program upon request of the Board or other duly authorized officer or employee of the State of Georgia. For this purpose, the Medical School shall:

(a) Maintain for three (3) years after receipt of the funds all directly pertinent books, documents, papers, and records involving related transactions;

(b) Retain sufficient records for the conduct of an audit for any year for which payments are in dispute until such dispute is resolved; and

(c) Be subject to reduction in payment of the Medical Student Capitation Program funding based on the findings of a state audit disallowing any previous such payments.

(4) Primary Care and Core Specialty Enrollment Rate. The Primary Care and Core Specialty Enrollment Rate will be monitored by the Board for five (5) years from the date of graduation. In the event the Primary Care and Core Specialty Enrollment Rate should fall below an acceptable number over any five (5) consecutive year period, the Board shall have the authority to adjust the payment to the school. The acceptable rate will be determined by the Board from time to time and set forth in the Agreement between the Board and the School.

Cite as Ga. Comp. R. & Regs. R. 195-9-.02

AUTHORITY: O.C.G.A. § 49-10.

HISTORY: Original Rule entitled "Medical Student Capitation Program" adopted. F. Jan. 10, 2005; eff. Jan. 30, 2005.

Repealed: New Rule of same title adopted. F. May 5, 2009; eff. May 25, 2009.

Repealed: New Rule of same title adopted. F. Nov. 15, 2018; eff. Dec. 5, 2018.

Amended: F. Dec. 5, 2024; eff. Dec. 25, 2024.

Department 464. GEORGIA PEACE OFFICER STANDARDS AND TRAINING COUNCIL

Chapter 464-6. INSTRUCTOR CERTIFICATION

464-6-.05 Designated Instructor Certification

Any persons serving as an instructor in the following subjects must be certified as a Level II-D (Designated) instructor in accordance with these rules:

(a) Firearms

(b) Defensive Tactics

(c) Driver Training

(d) Speed Detection

(e) Hazardous Materials

(f) Emergency Medical

(g) Master Resiliency

(h) Use of Force

(i) Standardized Field Sobriety Testing (SFST)

(j) Precision Immobilization Technique (PIT)

(k) Motorcycle

(l) Drug Recognition Expert (DRE)

Cite as Ga. Comp. R. & Regs. R. 464-6-.05

AUTHORITY: O.C.G.A. § 35-8-7(23)**.**

HISTORY: Original Rule entitled "Prior Employed Applicants" adopted. F. Feb. 12, 1971; eff. Mar. 4, 1971.

Repealed: F. Sept. 2, 1975; eff. Sept. 22, 1975.

Amended: Rule entitled "Schools Required To Be Certified" adopted. F. July 7, 1978; eff. July 27, 1978.

Amended: Rule repealed and a new Rule of the same title adopted. F. Mar. 13, 1985; eff. Apr. 2, 1985.

Amended: Rule repealed and a new Rule entitled "Specialized Instructor Certification" adopted. F. Mar. 2, 1988; eff. Mar. 22, 1988.

Amended: F. Sept. 7, 1989; eff. Sept. 27, 1989.

Amended: F. Jan. 11, 1991; eff. Jan. 31, 1991.

Repealed: New Rule, same title adopted. F. Mar. 19, 1998; eff. Apr. 8, 1998.

Amended: F. Apr. 9, 2007; eff. Apr. 29, 2007.

Amended: F. July 2, 2021; eff. July 22, 2021.

Repealed: New Rule entitled "Designated Instructor Certification" adopted. F. Jan. 9, 2023; eff. Jan. 29, 2023.

Amended: F. Dec. 27, 2024; eff. Jan. 16, 2025.

Department 464. GEORGIA PEACE OFFICER STANDARDS AND TRAINING COUNCIL

Chapter 464-16. TRAINING OF COMMUNICATIONS OFFICERS

464-16-.02 Basic, In-Service Training and Specialized/Advanced Course Administration

Each person applying for Communications Officer Certification must meet the following requirements:

Basic, in-service, and specialized/advanced courses shall be administered by schools certified in accordance with these Rules, except that the Council may, in its discretion, recognize college, junior college, technical school, trade school, or similar institution which is substantially equivalent to that which the Council may establish. The Basic Communications Officer Training Course shall at all times be delivered on the premises of an academy certified in accordance with these Rules or sites specifically approved by Council, and be delivered to the entire class as a single entity except where certain remedial training is required by P.O.S.T. policy.

(a) SB505 required by January 1, 2024, the P.O.S.T. Council, in coordination with the Georgia Emergency Communications Authority (GECA), shall establish an amount of continuing education units to be annually completed by communications officers. During a meeting P.O.S.T. Council staff and the GECA agreed on requiring 10 hours of annual in-service training. On or after January 1, 2025, no person shall be certified by the P.O.S.T. Council under this Code section unless such person has satisfactorily completed such training.

Cite as Ga. Comp. R. & Regs. R. 464-16-.02

AUTHORITY: O.C.G.A. § 35-8-7(23)**.**

HISTORY: Original Rule entitled "Basic, In-Service Training and Specialized/Advanced Course Administration" adopted F. Jan. 5, 1995; eff. Jan. 25, 1995.

Repealed: New Rule, same title adopted. F. Mar. 19, 1998; eff. Apr. 8, 1998.

Amended: F. Dec. 27, 2024; eff. Jan. 16, 2025.

Department 480. RULES OF GEORGIA STATE BOARD OF PHARMACY

Chapter 480-10A. CENTRAL FILLING REGULATIONS

480-10A-.05 Transmission and Labeling

(1) The transmission and labeling of controlled substance prescriptions processed utilizing central fill services must comply with all federal and state laws, rules, and regulations.

(2) The originating pharmacy must comply with the minimum required information for the patient record system and all requirements of a prescription drug order as outlined in the Georgia law and Board rules prior to sending a prescription to the central fill pharmacy.

(3) All prescriptions may be transmitted electronically from an originating pharmacy to a central fill pharmacy including via facsimile.

(4) All transmission records must include the following:

(a) "CENTRAL FILL" written on the face of a prescription if it is a hard copy prescription;

1. Where the record of a prescription is maintained in a pharmacy's computer prescription system, this requirement may be satisfied by notation in the computer prescription system indicating that a particular prescription was filled by central fill, provided such record is capable of immediate retrieval upon request for inspection by the Georgia Drugs and Narcotics Agency;

(b) The name, address, telephone number, Georgia license number, and DEA registration number (if the prescription is a controlled substance), of the central fill pharmacy to which the prescription has been transmitted;

(c) Number of refills already dispensed and number of refills remaining (if applicable);

(d) The name of the originating pharmacy pharmacist transmitting the prescription; and

(e) The date of transmittal.

(5) All receipt of transmission records must include all information included in subsection 4 and the name, address, telephone number, Georgia license number, and DEA registration number (if the prescription is a controlled substance), of the originating pharmacy transmitting the prescription.

(6) The label affixed to the container of a dangerous drug or other non-controlled substance filled by a central fill pharmacy must contain the following:

(a) Date of fill or refill;

(b) The originating pharmacy name, address, and telephone number;

(c) The central fill pharmacy's unique identifier;

(d) The serial number of the prescription;

(e) The name of the patient;

(f) The name of the prescribing practitioner;

(g) Name of supervising physician if applicable;

(h) Expiration date of the dispensed drug; and

(i) The directions for use and cautionary statements, if any, contained in such prescription or required by law.

Cite as Ga. Comp. R. & Regs. R. 480-10A-.05

AUTHORITY: O.C.G.A. § 26-4-60**.**

HISTORY: Original Rule entitled "Transmission and Labeling" adopted. F. Nov. 15, 2019; eff. Dec. 5, 2019.

Amended: F. Dec. 12, 2024; eff. Jan. 1, 2025.

Department 480. RULES OF GEORGIA STATE BOARD OF PHARMACY

Chapter 480-22. REQUIREMENTS OF A PRESCRIPTION UNDER ORDER

480-22-.06 Partial Filling of a Schedule II (C-II) Controlled Substance Prescription Drug Order

(1) The partial filling of a schedule II (C-II) prescription drug order is permissible, if the pharmacist is unable to supply the full quantity prescribed in a written or emergency oral prescription drug order, and the pharmacist makes a notation of the quantity dispensed on the face of the written prescription, written record of the emergency oral prescription, or in the electronic prescription record.

(a) The remaining portion of the prescription drug order may be filled within 72 hours of the first partial filling.

(b) If the remaining portion is not or cannot be filled within the 72-hour period, the pharmacist shall notify the prescribing individual practitioner.

(c) No further quantity may be supplied beyond 72 hours without a new prescription drug order.

(2) Partial filling of a prescription drug order for a schedule II (C-II) controlled substance at the request of the prescribing practitioner or patient:

(a) A prescription drug order for a schedule II (C-II) controlled substance may be partially filled if all of the following conditions are satisfied:

1. The prescription drug order is written and filled in accordance with State and Federal law;

2. The partial fill is requested by the patient, by one acting on behalf of the patient (parent or legal guardian of a minor patient, or caregiver of an adult patient named in a medical power of attorney), or by the practitioner who wrote the prescription drug order; and

3. The total quantity dispensed in all partial fillings does not exceed the total quantity prescribed.

(b) Non-emergency Prescription Drug Orders. If all the conditions of paragraph (2)(a) of this section are satisfied, and the prescription drug order is partially filled, remaining portions of a partially filled prescription drug order for a schedule II (C-II) controlled substance, if filled, must be filled not later than 30 days, after the date on which the prescription drug order is written; or within such other time as provided by 21 C.F.R. § 1306.13.

(c) Emergency Oral Prescription Drug Orders. If all the conditions of paragraph (2)(a) of this section are satisfied, and the prescription drug order is partially filled, remaining portions of a partially filled emergency oral prescription drug order for a schedule II (C-II) controlled substance, if filled, must be filled not later than 72 hours after the prescription is issued.

(3) A prescription drug order for a schedule II (C-II) controlled substance written for a patient in a Long Term Care Facility (LTCF), a hospice patient, or for a patient with a medical diagnosis documenting a terminal illness may be filled in partial quantities.

(a) If there is any question whether a patient may be classified as having a terminal illness (TI), the pharmacist must contact the prescribing practitioner prior to partially filling the prescription drug order. The pharmacist must record on the prescription drug order whether the patient is "terminally ill," a "hospice patient," or a "LTCF patient."

(b) A prescription drug order may not be partially filled unless it contains the notation "terminally ill," "hospice patient," or "LTCF patient," or it shall be deemed an unlawful prescription drug order.

(c) For each partial filling, the dispensing pharmacist shall record on the back of the prescription drug order (or on another appropriate record, uniformly maintained, and readily retrievable) the date of the partial filling, quantity dispensed, remaining quantity authorized to be dispensed, and the identification of the dispensing pharmacist.

(d) The total quantity of a schedule II (C-II) controlled substance dispensed in all partial fillings may not exceed the total quantity prescribed. Such C-II prescription drug orders may be partially filled for a period not to exceed 60 days from the dispensing date or sooner if the medication is discontinued.

(4) Information pertaining to current schedule II (C-II) prescription drug orders for patients in a LTCF, a hospice, or for terminally ill patients may also be maintained in a computerized system if this system has the capability to permit the following:

(a) Output (display or printout) of the original prescription drug order serial number, date of dispensing, identification by name of the prescribing practitioner, identification by name of the patient, address of the LTCF, hospice, the hospital, or residence of the patient, identification of the medication dispensed to include, dosage, form, strength, and quantity, listing of the partial fillings that have been dispensed under each prescription drug order, and the information required in this rule.

(b) Immediate updating of the prescription drug record each time a partial filling is conducted.

(c) Retrieval of partially filled C-II prescription drug order information is the same as required by Rule 480-22-.09 for Schedule III and IV prescription refill information.

Cite as Ga. Comp. R. & Regs. R. 480-22-.06

AUTHORITY: O.C.G.A. §§ 16-13-34**,** 16-13-39**,** 16-13-41**,** 26-4-27**,** 26-4-80**,** 26-4-83**.**

HISTORY: Original Rule entitled "Partial Filling of a Schedule II (C-II) Controlled Substance Prescription Drug Order" adopted. F. July 24, 2002; eff. August 13, 2002.

Amended: F. Dec. 12, 2024; eff. Jan. 1, 2025.

Department 480. RULES OF GEORGIA STATE BOARD OF PHARMACY

Chapter 480-36. RETAIL PHARMACY REQUIREMENTS FOR REMOTE PRESCRIPTION DRUG ORDER PROCESSING

480-36-.01 Definitions

As used in this chapter, the following terms:

(1) "Board" shall mean the Georgia Board of Pharmacy.

(2) "Remote prescription drug order processing" shall mean the processing of prescription or patient information from a location other than the location from which the prescription medication is received and dispensed. It shall not include the dispensing of a drug, but may include:

(a) Receiving the prescription order from the primary dispensing pharmacy;

(b) Interpreting, analyzing, or clarifying prescriptions;

(c) Entering prescription or patient data into a data processing system;

(d) Transferring prescription information;

(e) Performing a drug regimen review;

(f) Performing a drug allergy review;

(g) Performing therapeutic interventions; or

(h) Any combination of these order processing functions.

(3) Primary dispensing pharmacy. A primary dispensing pharmacy shall be defined as the retail pharmacy located in this State from which a prescription is physically received and dispensed to the patient or the patient's caregiver.

(4) Secondary remote entry pharmacist. A secondary remote entry pharmacist shall be defined as a pharmacist licensed in this state and located anywhere in the United States who performs remote prescription drug order processing but does not dispense the medication to the patient or the patient's caregiver.

Cite as Ga. Comp. R. & Regs. R. 480-36-.01

AUTHORITY: O.C.G.A. §§ 26-4-5**,** 26-4-27**,** 26-4-28**.**

HISTORY: Original Rule entitled "Definitions" adopted. F. Feb. 21, 2011; eff. Mar. 13, 2011.

Amended: F. May 4, 2023; eff. May 24, 2023.

Amended: F. Dec. 12, 2024; eff. Jan. 1, 2025.

480-36-.07 [Repealed]

Cite as Ga. Comp. R. & Regs. R. 480-36-.07

AUTHORITY: O.C.G.A. §§ 24-9-40**,** 26-4-5**,** 26-4-27**,** 26-4-28**,** 26-4-80**.**

HISTORY: Original Rule entitled "Notification to Patients" adopted. F. Feb. 21, 2011; eff. Mar. 13, 2011.

Amended: F. May 4, 2023; eff. May 24, 2023.

Repealed: F. Dec. 12, 2024; eff. Jan. 1, 2025.

Department 505. PROFESSIONAL STANDARDS COMMISSION

Chapter 505-2. CERTIFICATION

505-2-.143 School Librarian

(1) **Summary:** This rule outlines the requirements and procedures for issuance of the service certificate in School Librarian P-12, which allows individuals certified in this field to collaborate, plan, and design with school personnel in areas such as information literacy and assessment, while also providing supplemental curriculum material to bridge the digital divide.

(2) **Professional Certificate Requirements** (See GaPSC Rule 505-2-.05 PROFESSIONAL CERTIFICATE).

(a) Issuance.

1. An individual is eligible for a Standard Professional certificate in the field of School Librarian based on meeting the following requirements:

(i) Completion of a state-approved certification preparation program in School Librarian at the master's degree level - level five (5) - or higher.

(ii) Meet the Special Georgia Requirements (See GaPSC Rule 505-2-.24 SPECIAL GEORGIA REQUIREMENTS) applicable to the field of School Librarian.

(I) Pass the GACE content knowledge assessment.

(II) Satisfy the Special Education requirement with a grade of B or better.

(III) Meet Standards of Conduct.

(iii) Apply for certification following procedures outlined in GaPSC Rule 505-2-.27 CERTIFICATION APPLICATION, MyPSC AND TEST ELIGIBILITY PROCEDURES.

(3) **Provisional Certificate Requirements** (See GaPSC Rule 505-2-.08 PROVISIONAL CERTIFICATE).

(a) Issuance.

1. Hold a bachelor's degree or higher from a GaPSC-accepted accredited institution.

2. Pass the GACE content assessment.

3. Meet Georgia's standards of conduct.

4. Have the certificate requested by the employing Georgia local unit of administration following procedures outlined in GaPSC Rule 505-2-.27 CERTIFICATION APPLICATION, MyPSC AND TEST ELIGIBILITY PROCEDURES.

(b) The Provisional certificate will be issued for one (1) year pending verification of enrollment in GaPSC-accepted educator preparation program leading to certification in the field of School Librarian. Once enrolled in a GaPSC-accepted program, the certificate will be extended for two additional years (See GaPSC Rule 505-2-.08 PROVISIONAL CERTIFICATE).

(c) Conversion.

1. Complete a GaPSC-accepted program in the field of School Librarian.

2. Meet the following Special Georgia Requirements:

(i) Satisfy the Special Education requirement with a grade of B or better.

(ii) Meet Standards of Conduct.

3. Have the certificate requested by the employing Georgia local unit of administration (LUA) following procedures outlined in GaPSC Rule 505-2-.27 CERTIFICATION APPLICATION, MyPSC AND TEST ELIGIBILITY PROCEDURES.

(4) **Non-Renewable Professional Requirements** (See GaPSC Rule 505-2-.09 NON-RENEWABLE PROFESSIONAL CERTIFICATE).

(a) Non-Renewable Professional certificate in the field of School Librarian may be issued at the request of an employing Georgia local unit of administration (LUA) in the following scenarios:

1. One (1)-year Non-Renewable Professional certificate in the field of School Librarian may be issued to an individual who holds an expired Georgia Clear Renewable or Professional School Librarian certificate but has not met renewal requirements outlined in section (8) below.

2. Three (3)-year Non-Renewable Professional certificate in the field of School Librarian may be issued to an individual who currently holds a renewable professional certificate in any field at a level four (4) or higher for completion of the options outlined in (2)(a).

(5) **Additional Certificate Title Issued in the Field.**

(a) Retired Educator Certificate (See GaPSC Rule 505-2-.44 RETIRED EDUCATOR).

(6) **To Add the Field** (See GaPSC Rule 505-2-.34 ADD A FIELD).

(a) To add School Librarian to an existing Professional certificate in any field, an individual must complete the requirements outlined in (2)(a) for an initial School Librarian certificate to include all applicable Special Georgia Requirements.

(7) **To Upgrade the Level** (See GaPSC Rule 505-2-.33 CERTIFICATE UPGRADE).

(8) **Renewal Requirements** (See GaPSC Rule 505-2-.36 RENEWAL REQUIREMENTS).

(9) **In-Field Statement** (See GaPSC Rule 505-2-.40 IN-FIELD ASSIGNMENT).

(a) Individuals certified in Media Specialist are in-field to serve as a School Librarian in grades P-12.

Cite as Ga. Comp. R. & Regs. R. 505-2-.143

AUTHORITY: O.C.G.A. 20-2-200**.**

HISTORY: Original Rule entitled "Speech and Language Pathology" adopted. F. Dec. 18, 1991; eff. Jan. 7, 1992.

Repealed: F. Dec. 16, 1992; eff. July 1, 1993, as specified by the Agency.

Amended: New Rule entitled "Foreign Language, Turkish" adopted. F. Sept. 16, 2008; eff. Oct. 15, 2008, as specified by the Agency.

Amended: F. Apr. 20, 2009; eff. May 15, 2009, as specified by the Agency.

Repealed: New Rule entitled "Media Specialist" adopted. F. Jun. 11, 2014; eff. July 1, 2014, as specified by the Agency.

Repealed: New Rule of same title adopted. F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Amended: F. June 10, 2022; eff. July 1, 2022, as specified by the Agency.

Amended: New title, "School Librarian." F. Dec. 18, 2024; eff. Jan. 1, 2025, as specified by the Agency.

Department 505. PROFESSIONAL STANDARDS COMMISSION

Chapter 505-3. EDUCATOR PREPARATION RULES

505-3-.01 Requirements and Standards for Approving Educator Preparation Providers and Educator Preparation Programs

(1) **Purpose.** This rule delineates state requirements and standards for the approval of educator preparation providers (EPPs) and programs for the initial and continuing preparation of educators.

(2) **Definitions.**

(a) Accreditation:

(1) A process for assessing and enhancing academic and educational quality through external, often voluntary, peer review.

(2) A decision awarded and process certified by an accrediting organization. For the purposes of educator preparation provider (EPP) and program approval, GaPSC recognizes three (3) types of accreditation: Regional Accreditation, National Accreditation, and Specialized Accreditation. Each type of accreditation is defined in subsequent definitions.

(b) Administrative Approval: A process used in lieu of the Developmental Approval Review exclusively for endorsement programs and available only to GaPSC-approved EPPs. Administrative approval involves a staff review of an approval application and a curriculum map in which key assessments are described and mapped to program content standards. After an endorsement program is administratively approved, it will be reviewed against all applicable standards in the EPP's next Continuing Approval Review.

(c) Advanced Preparation/Degree-Only Program: An educator preparation program at the post-baccalaureate level for the continuing education of educators who have previously completed initial preparation and are certified in the program's subject area or field of certification. Advanced preparation/degree-only programs commonly award graduate credit and include masters, specialist, and doctoral degree programs.

(d) Approval: A process for assessing and enhancing academic and educational quality through peer review, to assure the public that an educator preparation provider (EPP) and/or program has met institutional, state, and national standards of educational quality; also, a Georgia Professional Standards Commission (GaPSC) decision rendered when an EPP or program meets GaPSC standards and annual reporting requirements.

(e) Approval Review: Examination of evidence and interviews of stakeholders conducted by GaPSC reviewers either on-site at an institution/agency, or electronically using web and telephone conferencing systems as part of a Developmental, First Continuing, Continuing, Focused, or Probationary Review. Although not an approval review, the Substantive Change process is used when certain changes are made to the design or operations of approved program (see definition aq, below).

(f) B/P-12: Formerly P-12, the term *B/P-12* references schools serving children aged birth to grade 12.

(g) Branch Campus: A campus that is physically detached from the parent university or college and has autonomous governance. A branch campus generally has full student and administrative services with a CEO and is regionally accredited separately from the parent campus. For approval purposes, GaPSC considers branch campuses distinct from the parent institution and therefore a separate EPP. For approval purposes, a branch campus located in the state of Georgia having an original, or main, campus located in another state or country is considered an out-of-state institution and is therefore ineligible to seek GaPSC approval as an EPP.

(h) Candidates/Teacher Candidates: Individuals enrolled in programs for the initial or advanced preparation of educators, programs for the continuing professional development of educators, or programs for the preparation of other professional school personnel. Candidates are distinguished from students in B/P-12 schools. Candidates in programs leading to Teaching (T) certification may also be referred to as Pre-service Teacher Candidates. (The term *enrolled* is used in the GaPSC approval process to mean the candidate is admitted and taking classes.)

(i) Clinical Educators: All educator preparation provider (EPP) and B/P-12 school-based individuals, including classroom teachers, who assess, support, and develop a candidate's knowledge, skills, or professional dispositions at some stage in the clinical experiences. The term *Clinical Educators* is intended to be inclusive of the roles of Mentor Teacher, B/P-12 Supervisor, and Faculty Supervisor. EPPs are expected to clearly define the roles and responsibilities of all clinical educators with whom candidates interact.

(j) Clinical Practice: Culminating residency (formerly referred to as *student teaching)* or internship experiences with candidates placed in classrooms for at least one (1) full semester where they experience intensive and extensive practices in which they are fully immersed in the learning community and provided opportunities to develop and demonstrate competence in the professional roles for which they are preparing. In initial preparation programs in Service (S) and Leadership (L) fields, candidates will complete such culminating residency or internship experiences in placements that allow the knowledge, skills, and dispositions included in the programs to be practiced and applied. In non-traditional preparation programs, such as GaTAPP, clinical practice is job-embedded as candidates must be hired as a classroom teacher to be admitted to the program.

(k) Content Knowledge: The central concepts, tools of inquiry, and structures of a discipline (Source: CAEP Glossary).

(l) Council for the Accreditation of Educator Preparation (CAEP): The national accreditation organization formed as a result of the unification of the National Council for the Accreditation of Teacher Education (NCATE) and the Teacher Education Accreditation Council (TEAC). CAEP advances excellence in educator preparation through evidence-based accreditation that assures quality and supports continuous improvement to strengthen B/P-12 student learning. CAEP accredits educator preparation providers (EPPs).

(m) Dispositions: Moral commitments and professional attitudes, values, and beliefs that underlie educator performance and are demonstrated through both verbal and non-verbal behaviors as educators interact with students, families, colleagues, and communities.

(n) Distance Learning: A formal educational process in which instruction occurs when candidates and the instructor are not in the same place at the same time. Distance learning can occur through virtually any media including asynchronous or synchronous, electronic or printed communications.

(o) Distance Learning Program: A program delivered primarily (50% or more contact hours) through distance technology in which the instructor of record and candidates lack face-to-face contact and instruction is delivered asynchronously or synchronously (see definition n). These preparation programs include those offered by the EPP through a contract with an outside vendor or configured as a consortium with other EPPs, as well as those offered solely by the provider.

(p) Dual-field Program: Dual-field educator preparation programs result in candidates meeting, through the completion of one degree program, all requirements and standards for two fields of certification as defined by two distinct Educator Preparation Rules. Dual-field program candidates must complete all requirements for both fields (one field cannot be optional), and candidates must attempt the state-approved content assessment for both fields prior to program completion.

(q) Dyslexia and Other Related Disorders: Dyslexia is a specific learning disability that is neurological in origin, which is characterized by difficulties with accurate or fluent word recognition and by poor spelling and decoding abilities. These difficulties typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction. Secondary consequences may include problems in reading comprehension and reduced reading experience that can impede the

growth of vocabulary and background knowledge. Other related disorders include aphasia, dyscalculia, and dysgraphia.

1. Aphasia: Aphasia is a condition characterized by either partial or total loss of the ability to communicate verbally or through written words. A person with aphasia may have difficulty speaking, reading, writing, recognizing the names of objects, or understanding what other people have said. The condition may be temporary or permanent and shall not include speech problems caused by loss of muscle control.

2. Dyscalculia: Dyscalculia is the inability to understand the meaning of numbers, the basic operations of addition and subtraction, or the complex operations of multiplication and division or to apply math principles to solve practical or abstract problems.

3. Dysgraphia: Dysgraphia is difficulty in automatically remembering and mastering the sequence of muscle motor movements needed to accurately write letters or numbers.

(r) Educator Preparation Program: A planned sequence of courses and experiences for preparing B/P-12 teachers and other professional school personnel that leads to a state certification. The three (3) types of educator preparation programs are described in definitions aa (Initial), s (Endorsement), and c (Advanced/Degree-Only).

(s) Educator Preparation Provider (EPP): The institution of higher education (IHE), college, school, department, agency, or other administrative body responsible for managing or coordinating all programs offered for the initial and continuing preparation of teachers and other school personnel, regardless of where these programs are administratively housed.

(t) Endorsement Program: A planned sequence of courses and experiences, typically three (3) to four (4) courses in length, designed to provide educators with an additional, specific set of knowledge and skills, or to expand and enhance existing knowledge and skills. Successful completion of an endorsement program results in the addition of the endorsement field to the Georgia educator certificate designating expertise in the field. Endorsement programs may be offered as non-credit bearing programs, or they may lead to college credit; they must be approved by the GaPSC and administered by a GaPSC-approved EPP, and may be offered as either a stand-alone program or, unless otherwise specified in GaPSC Educator Preparation Rules 505-3-.82 through 505-3-.115, embedded in an initial preparation or advanced/degree-only program. Depending on the needs of the individual educator, endorsement programs may also be included as a part of an educator's professional learning plan/goals. See GaPSC Rule 505-2-.14, ENDORSEMENTS.

(u) EPP Readiness Framework: Formerly called *Preconditions.* Fundamental requirements that undergird the GaPSC standards that must be met as a first step in the approval process and before an EPP is permitted to schedule a Developmental Approval Review.

(v) Field Experiences: Activities that include organized and sequenced engagement of candidates in settings providing opportunities to observe, practice, and demonstrate the knowledge, skills, and dispositions delineated in institutional, state, and national standards. The experiences must be systematically designed and sequenced to increase the complexity and levels of engagement with which candidates apply, reflect upon, and expand their knowledge and skills. Since observation is a less rigorous method of learning, emphasis should be on field experience sequences requiring active professional practice or demonstration, and including substantive work with B/P-12 students and B/P-12 personnel as appropriate. In non-traditional preparation programs (e.g., GaTAPP), field experiences occur outside candidates' classrooms with students with different learning needs and varied backgrounds in at least two (2) settings during the clinical practice.

(w) First Continuing Review: The First Continuing Review is conducted three (3) to four (4) years after a Developmental Review to determine if the EPP and/or initial educator preparation program(s) have evidence of meeting all applicable standards.

(x) Georgia Teacher Academy for Preparation and Pedagogy (GaTAPP): Georgia's non-traditional preparation program for preparing career changers for certification as B/P-12 teachers. See GaPSC Rule 505-3-.05 GEORGIA TEACHER ACADEMY FOR PREPARATION AND PEDAGOGY (GaTAPP).

(y) Grade Point Average (GPA): A quantitative indicator of candidate achievement. Letter grades are converted to numbers and averaged over a period of time.

(z) Induction:

(1) The formal act or process of placing an individual into a new job or position and providing appropriate support during the first three (3) years of employment. The Georgia Department of Education defines The Induction Phase Teacher as any teacher who has been hired into a new permanent position in any Georgia school.

(2) A Georgia level of professional type educator certification; for additional information see GaPSC Rule 505-2-04 INDUCTION CERTIFICATE.

(aa) Information Literacy: An intellectual framework for understanding, finding, evaluating, and using information - activities which may be accomplished in part by fluency with information technology, in part by sound investigative methods, but most importantly, through critical discernment and reasoning (adopted from The Association of College and Research Libraries).

(ab) Initial Preparation Program: A program designed to prepare candidates for their initial, or first professional type certificate in a Teaching (T), Leadership (L), or Service (S) field. Examples include degree programs at the baccalaureate, masters, or higher levels; or post-baccalaureate programs, non-degree certification-only programs, and non-traditional programs, such as the Georgia Teacher Academy for Preparation and Pedagogy (GaTAPP) or Alternative Preparation for Educational Leadership program. Programs leading to an educator's first certificate in a particular field are considered initial preparation even if the educator is certified in one or more other fields.

(ac) Local Unit of Administration (LUA):

1. A local unit of administration (LUA) is a local education agency or a regional educational service agency, including but not limited to public, waiver, strategic waiver system, charter system or charter schools and private schools (i.e., faith-based schools, early learning centers, hospitals, juvenile detention centers, etc.). State agencies and public and private institutions of higher education requiring certification for employment purposes are included in this definition.

(ad) Media Literacy: The ability to encode and decode the symbols transmitted via media and the ability to access, analyze, evaluate, and communicate information in a variety of forms, including print and non-print messages. Also known as the skillful application of literacy skills to media and technology messages (adopted from the National Association for Media Literacy Education).

(ae) Mentor Teacher: A B/P-12 employed teacher and an expert practitioner who supports the development of a pre-service or novice teacher by assessing and providing feedback on instructional practice; interactions with students, colleagues, and parents; classroom management; and professionalism. Mentor teachers are typically involved with faculty supervisors in the formal supervision and evaluation of pre-service clinical practice experiences (residency/internship). The term *Mentor Teacher* is often used synonymously with the terms *Cooperating Teacher* and *B/P-12 Supervisor*. The terms *B/P-12 Supervisor* and *Faculty Supervisor* are described in definition au.

(af) National Accreditation: National accreditation is conducted by an accrediting organization which develops evaluation criteria and conducts peer evaluations to assess whether or not those criteria are met. National accrediting agencies operate throughout the country and review entire institutions, EPPs, or programs in specific content fields. The Southern Association of Colleges and Schools Commission on Colleges (SACSCOC) is an example of a national accrediting organization that reviews institutions. CAEP (see definition l) is an example of a national accrediting organization that reviews EPPs. The National Association of Schools of Music (NASM) is an example of a national accrediting organization that reviews programs in a specific field.

(ag) Nationally Recognized Program: A program that has met the standards of a national specialized professional association (SPA) that is a constituent member of CAEP. The term *National Recognition* signifies the highest level of SPA recognition awarded to programs.

(ah) Non-traditional Teacher Preparation Program (GaTAPP): A program designed to prepare individuals who at admission hold an appropriate degree with verified content knowledge through a major or its equivalent in the content field or a passing score on the state-approved content assessment in the content field. If the state-approved content knowledge was not required at admission, it must be passed for program completion. Non-traditional teacher preparation programs lead only to a certificate, not to a degree or college credit and:

1. Feature a flexible timeframe for completion;

2. Are job-embedded, allowing candidates to complete requirements while employed by a regionally accredited local unit of administration (school district or private school), a charter school approved by the Georgia State Charter School Commission, or a charter school approved by the Georgia Department of Education as a classroom teacher full-time or part-time for at least a half day;

3. Require that candidates are supported by a Candidate Support Team;

4. Require an induction component that includes coaching and supervision;

5. Provide curriculum, performance-based instruction, and assessment focused on the pedagogical knowledge, skills, and dispositions necessary for the candidate to teach his/her validated academic content knowledge; and

6. Are individualized based on the needs of each candidate with respect to content knowledge, pedagogical skills, learning modalities, learning styles, interests, and readiness to teach. See GaPSC Rule 505-3-.05 GEORGIA TEACHER ACADEMY FOR PREPARATION AND PEDAGOGY (GaTAPP).

(ai) Out-of-State Institution: An institution of higher education administratively based in a state within the United States other than Georgia, or another country.

(aj) Pedagogical Content Knowledge: A core part of content knowledge for teaching that includes: core activities of teaching, such as determining what students know; choosing and managing representations of ideas; appraising, selecting and modifying textbooks; and deciding among alternative courses of action and analyzing the subject matter knowledge and insight entailed in these activities (Source: adapted from the CAEP Glossary).

(ak) Pedagogical Knowledge: The broad principles and strategies of classroom instruction, management, and organization that transcend subject matter knowledge (Source: CAEP Glossary).

(al) Pedagogical Skills: An educator's abilities or expertise to impart the specialized knowledge/content and skills of their subject area(s) (Source: CAEP Glossary).

(am) Preparation Program Effectiveness Measures (PPEMs): A set of common measures applied to all teacher preparation programs leading to initial certification in a field. Teacher Preparation Program Effectiveness Measures (TPPEMs) are further defined in GaPSC Rule 505-3-.02 EDUCATOR PREPARATION PROVIDER ANNUAL REPORTING AND EVALUATION.

(an) Program Completer: A person who has met all the requirements of a GaPSC-approved or state-approved out-of-state educator preparation program to include all GaPSC requirements such as attempting all assessments required for state certification.

(ao) Regional Accreditation: Regional accreditation is conducted by an accrediting organization that develops evaluation criteria and conducts peer evaluations to assess whether or not those criteria are met. Six (6) regional accreditors operate in the United States to conduct educational accreditation of public, private, for-profit, and not-for-profit schools, colleges, and universities in their regions. The Southern Association of Colleges and Schools (SACS) is the regional accreditor for the southern region. The SACS accrediting organization for P-12 schools is the Council on Accreditation and School Improvement (SACSCASI), also known as Cognia. The SACS accrediting organization for institutes of higher education is the Commission on Colleges (SACSCOC).

(ap) Specialized Accreditation: Specialized accrediting organizations operate throughout the country to review programs and some single-purpose institutions. Like national and regional accreditors, specialized accreditation organizations develop evaluation criteria and conduct peer evaluations to assess whether or not those criteria are met.

(aq) Specialized Professional Association (SPA): A constituent member of CAEP representing a particular disciplinary area that develops standards for the approval of educator preparation programs in that area and reviews programs for compliance with those standards.

(ar) Substantive Change Procedure: Process used for EPPs to submit changes that are considered significant, including additional levels of program offerings and changes to key assessments or leadership personnel.

(as) Supervisor: An individual involved in the oversight and evaluation of educator preparation candidates during field and clinical experiences. In most cases one or more individuals are involved in the formal supervision of clinical experiences-a supervisor employed by the EPP and one or more supervisors employed by the B/P-12 site hosting a pre-service educator. The term *Faculty Supervisor* refers to the employee of the EPP and the term *B/P-12 Supervisor* (sometimes referred to as Mentor Teacher or Cooperating Teacher) refers to the school-based employee who hosts a pre-service educator for the culminating residency or internship.

(at) Technology Literacy: Using technology as a tool to research, organize, evaluate, and communicate information and understanding the ethical and legal issues surrounding the access and use of information.

(au) Traditional Preparation Program: A credit-bearing program designed for the preparation of educators offered by an institution of higher education.

(av) Year-long Residency: An extended clinical practice lasting the entire length of the B/P-12 school year, in the same school, in which candidates have more time to practice teaching skills with students under the close guidance of experienced and effective B/P-12 teachers licensed in the content area the candidate is preparing to teach. Candidates fully participate in the school as a member of the faculty, including faculty meetings, parent conferences, and professional learning activities spanning, if feasible, the beginning (e.g., pre-planning) and ending (post-planning) of the academic year. (Candidates may participate in post-planning at the end of the junior year if it is not possible for them to participate at the end of the senior year). These extended residencies also include supervision and mentoring by a representative of the preparation program who, along with the B/P-12 supervisor, ensures the candidate is ready for program completion and is eligible for state certification.

(3) **GENERAL REQUIREMENTS APPLICABLE TO ALL EDUCATOR PREPARATION PROVIDERS AND EDUCATOR PREPARATION PROGRAMS.**

(a) Authorization for the establishment of Georgia Educator Preparation Providers (EPPs).

1. The following types of organizations administratively based in the state of Georgia (as determined by the location of the office of the President or the single highest ranking executive officer of the institution/agency/organization) are eligible to seek GaPSC approval as an EPP for the purpose of preparing educators: Regionally accredited institutions of higher education; regionally accredited local units of administration with student enrollment over 30,000; Regional Educational Service Agencies (RESAs); and other education service organizations.

2. Out-of-state organizations that are Accredited without conditions or probation by the Council for the Accreditation of Educator Preparation (CAEP) and that are approved without conditions or probation by the state in which the organization is administratively based are eligible to seek GaPSC approval to offer, through a branch or satellite campus and/or by online delivery, non-credit-bearing certification-only programs leading to initial teacher certification. Out-of-state program providers offering credit-bearing and/or degree-granting programs are not eligible for GaPSC approval. Once approved by GaPSC, an out-of-state organization must maintain CAEP Accreditation and home state approval in good standing (without conditions or probation) to continue qualifying for GaPSC approval.

(b) Accreditation of Institutions/Agencies with an Educator Preparation Provider (EPP).

1. Institutions of higher education with a college, school, department or other entity that is a GaPSC-approved EPP shall be fully accredited by the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC), at the level(s) of degree(s) granted by the institution. The institution shall submit program(s) for GaPSC approval corresponding to the appropriate level of accreditation and in a field recognized for certification by the GaPSC. If an institution has submitted an application for change in degree level to a GaPSC-accepted regional accreditation agency, and is seeking Developmental Approval of a program(s) at the proposed new degree level by the GaPSC, the institution must be regionally accredited at the new degree level prior to approval review by the GaPSC. See GaPSC Rule 505-2-.31 GaPSC-ACCEPTED ACCREDITATION FOR CERTFICATION PURPOSES.

2. Local education agencies, RESAs, or other approved, non-IHE providers shall admit candidates who hold degrees from a GaPSC-accepted accredited institution of higher education appropriate for the certificate sought. GaPSC-approved EPPs offering Career Technical and Agricultural Education (CTAE) programs, including GaTAPP providers, may admit individuals who do not hold post-secondary degrees who are seeking CTAE certification in certain fields (see GaPSC Rule 505-3-.05 GEORGIA TEACHER ACADEMY FOR PREPARATION AND PEDAGOGY (GaTAPP). See GaPSC Rule 505-2-.31 GaPSC-ACCEPTED ACCREDITATION FOR CERTIFICATION PURPOSES for a list of acceptable accrediting agencies.

(c) GaPSC Approval of Educator Preparation Providers (EPPs).

1. An EPP and/or program(s) shall be approved by its governing board prior to seeking GaPSC approval for the first time (Developmental Approval).

2. GaPSC approval standards for EPPs and programs shall at a minimum be adapted from the most recent version of the standards of the Council for the Accreditation of Educator Preparation (CAEP).

3. EPPs administratively based in the state of Georgia for which GaPSC has regulatory authority may choose to seek and/or maintain CAEP accreditation. If the most recent accreditation visit was conducted jointly by GaPSC and CAEP, the GaPSC will accept CAEP accreditation of an EPP and the EPP shall be recognized as approved by GaPSC until the end of the seven (7)-year approval cycle, or for a shorter period of time if, during the seven (7)-year cycle GaPSC action is necessitated by persistently low (Low Performing) status or non-compliance with GaPSC rules. If CAEP accreditation of the EPP is delayed, denied, or revoked, GaPSC will render an EPP approval decision. If the accreditation visit is conducted solely by CAEP, GaPSC approval of the EPP will be based upon the implementation of the state approval process and a final EPP approval decision will be rendered by the Georgia Professional Standards Commission. Program approval is contingent upon EPP approval.

4. LUAs, qualifying organizations (see paragraph (3) (a) 1 and 2), and IHEs seeking GaPSC approval as an EPP shall follow all applicable GaPSC policies and procedures to include the EPP Readiness Framework to determine eligibility for a review, approval review requirements, post review requirements, Commission decisions, public disclosure policy, and annual reporting procedures. In order to maintain approval status, all GaPSC-approved EPPs must maintain regional or GaPSC-accepted accreditation and must comply with all applicable GaPSC rules and policies including, but not limited to, those regarding Preparation Program Effectiveness Measures annual reporting, and data submission requirements. Failure by GaPSC-approved EPP to fully comply with GaPSC Educator Preparation, Certification, and Ethics Rules, Commission approval decisions, or agency procedures and/or requirements may result in changes in approval status up to and including revocation of approval. Failure to comply with federal reporting requirements may result in fines.

5. EPPs must have completed the GaPSC approval process and be approved by the GaPSC before candidates are enrolled in educator preparation programs and begin taking classes.

6. For EPPs offering initial preparation programs leading to a Teaching (T), Leadership (L), or Service (S) certificate, GaPSC EPP approval cycles shall include Developmental Approval valid for three (3) years and Continuing Approval valid for seven (7) years. The Developmental Approval Review is used to determine if a new EPP has the capacity to meet state standards and it is followed, in three (3) to four (4) years, by a First Continuing Review to determine if the EPP has evidence of meeting state standards. Following the First Continuing Review, the GaPSC will conduct Continuing Reviews of the EPP and all preparation programs at seven (7) year intervals. For

IHEs seeking to maintain CAEP accreditation, the state Continuing Review will be scheduled such that the state review will be completed and the resulting GaPSC approval decision will be rendered prior to the beginning of the CAEP site visit. GaPSC will require a Focused Approval Review or a Probationary Review of an approved or accredited EPP and/or its educator preparation programs in fewer than seven (7) years if annual performance data indicate standards are not being met, or if a previous approval review indicates pervasive problems exist that limit provider capacity to offer programs capable of meeting standards and requirements specified in GaPSC educator preparation and certification rules, or if GaPSC staff determine the EPP is out of compliance with state rules.

7. For EPPs offering only endorsement programs, GaPSC EPP approval cycles shall include Developmental Approval valid for seven (7) years and Continuing Approval every seven (7) years thereafter.

8. GaPSC-approved EPPs shall comply with all GaPSC reporting requirements, to include the timely submission of data in all appropriate candidate-level, program-level, and EPP-level reporting systems (e.g., Traditional Program Management System [TPMS], Non-Traditional Reporting System [NTRS], Provider Reporting System [PRS], and federal annual reports on the performance of the EPP and all educator preparation programs). Out-of-state EPPs offering initial teacher preparation programs to Georgia residents and/or to residents of other states who fulfill field and clinical experiences in Georgia B/P-12 schools shall comply with all applicable GaPSC reporting requirements, to include the submission of data in TPMS and other systems that may become applicable. EPPs shall report according to the schedules and timelines below and shall accurately provide all data elements. Failure to report on time and accurately may negatively impact EPP approval status. See GaPSC Rule 505-3-.02 EDUCATOR PREPARATION PROVIDER ANNUAL REPORTING AND EVALUATION.

(i) Enrollments. GaPSC-approved EPPs and out-of-state EPPs with candidates completing field and clinical experiences in Georgia schools shall, through the appropriate GaPSC reporting system (i.e., Non-Traditional Reporting System [NTRS] or Traditional Program Management System [TPMS]), enter all applicable data for candidates enrolled in Teaching (T), Leadership (L), and Service (S) field programs leading to initial Georgia certification, and in Endorsement programs according to the following schedule:

(I) October 31: The deadline for entering all candidates newly enrolled in the summer semester that just ended and all candidates newly enrolled in the current academic year fall semesters.

(II) March 31: The deadline for entering all candidates newly enrolled in current academic year spring semester.

(ii) Clinical Practice Beginning Date and Cooperating Teacher GA Cert ID. GaPSC-approved EPPs and out-of-state EPPs with candidates completing clinical experiences in Georgia schools shall enter in TPMS the beginning date of Clinical practice and cooperating teacher GA Cert ID according to the following schedule:

(I) September 30: The deadline for entering Clinical Practice Begin Date and Cooperating Teacher GA Cert ID for all candidates, including those who are employed as a teacher of record, beginning supervised clinical practice (student teaching/internship/residency) at the beginning of the B/P-12 academic year.

(II) February 28: The deadline for entering Clinical Practice Begin Date and Cooperating Teacher GA Cert ID for all candidates, including those who are employed as a teacher of record, beginning supervised clinical practice (student teaching/internship/residency) at the mid-point of the B/P-12 academic year.

(III) For any candidates beginning clinical practice at other times (e.g., not at the beginning or mid-point of the academic year), the Clinical Practice Begin Date and Cooperating Teacher GA Cert ID must be entered no later than 30 days after the first day of the supervised clinical practice (student teaching/internship/residency).

(iii) Completions and Withdrawals. GaPSC-approved EPPs and out-of-state EPPs with candidates completing field and clinical experiences in Georgia schools shall, through the appropriate GaPSC reporting system (i.e., Non-Traditional Reporting System [NTRS] or Traditional Program Management System [TPMS]), enter all applicable data related to candidate completions and withdrawals within sixty (60) days of the event.

(iv) For federal, Title II, reporting purposes, October 7 is the deadline for entering all initial teaching candidates who were enrolled, withdrawn, or completed a GaPSC-approved program during the prior September 1 - August 31.

9. GaPSC-approved EPPs shall notify all enrolled candidates when EPP and/or program approval is revoked or when approval status is changed to Probation. Notification must be made within sixty (60) days after such a GaPSC decision is granted, in written form via letter or e-mail, and a copy must be provided to GaPSC by the EPP head. This notification must clearly describe the impact of the approval status change on candidates and the options available to them. EPPs must maintain records of candidates' acknowledgement of receipt of the notification.

(d) GaPSC Approval of Educator Preparation Programs.

1. Educator preparation programs leading to Georgia educator certification shall be offered only by GaPSC-approved EPPs. All initial preparation programs and endorsement programs must be approved by the GaPSC.

2. GaPSC-approved EPPs seeking approval to add new initial preparation programs must receive governing board approval for the program(s) before submitting the GaPSC Intent to Seek Approval form.

3. GaPSC-approved EPPs seeking approval for preparation programs leading to Georgia educator certification shall follow all applicable GaPSC program approval policies and procedures in effect at the time of the requested approval and shall comply with revised policies in accordance with timelines published by the GaPSC.

4. Initial educator preparation programs and endorsement programs shall be approved by the GaPSC before candidates are enrolled and begin program coursework.

5. GaPSC-approved EPPs, in conjunction with preparations for an EPP approval review, shall submit program reports conforming to GaPSC program standards and program review requirements for approval. Programs may also be submitted to GaPSC-accepted Specialized Professional Associations or program accrediting agencies for national recognition or accreditation. If the highest level of recognition or accreditation, in most cases National Recognition or Accreditation, is granted for a program, state approval procedures will be reduced to remove duplication and will include only those components necessary to ensure Georgia-specific standards and requirements are met. Programs submitted for national recognition or accreditation that are not granted National Recognition (e.g., granted Recognition with Conditions or any level of recognition lower than National Recognition) or Accreditation must comply with all applicable GaPSC program approval review requirements. See the guidance document accompanying this rule for the list of GaPSC-accepted SPAs and program accrediting agencies.

6. GaPSC approval of initial preparation programs in Teaching (T), Leadership (L), and Service (S) fields shall include a Developmental Approval Review to determine if the new educator preparation program has the capacity to meet state standards. Developmental Approval is valid for three (3) to four (4) years and is followed by a First Continuing Review to determine if the educator preparation program has evidence of meeting state standards. Following the First Continuing Review, the GaPSC will conduct Continuing Reviews of the educator preparation programs in conjunction with the EPP Continuing Review at seven (7) year intervals.

7. GaPSC approval of new endorsement programs shall include an Administrative Approval process to determine if the new program has the capacity to meet state standards followed by a Continuing Approval Review of the program in conjunction with the next scheduled EPP Continuing Review, and Continuing Reviews every seven (7) years thereafter.

8. The GaPSC will require a Focused Approval Review or a Probationary Review of an approved educator preparation program in fewer than seven (7) years if a previous approval review indicates pervasive problems exist limiting program capacity to meet standards and requirements specified in GaPSC educator preparation and certification rules.

9. GaPSC-approved EPPs shall submit program(s) for GaPSC approval corresponding to the appropriate level of preparation (initial or endorsement) and in a certification field authorized in GaPSC Certification Rules. Although advanced/degree-only preparation programs are neither reviewed nor approved by GaPSC, those accepted by GaPSC for the purposes of certificate level upgrades must be listed in the GaPSC Certificate Upgrade Advisor. See GaPSC Certification Rule 505-2-.33 CERTIFICATE UPGRADE.

10. GaPSC-approved EPPs with approved programs in the fields of Educational Leadership Tier I, and Curriculum and Instruction or Teacher Leadership are eligible to request, through the GaPSC Substantive Change process, approval to offer a dual-field program conforming to the definition of Dual-field Program [see paragraph (2) (p)] and the applicable Educator Preparation Rule for the program. Dual-field programs may be offered only in the fields of (1) Curriculum and Instruction and Educational Leadership Tier I, and (2) Teacher Leadership and Educational Leadership Tier I. After GaPSC approval of a dual-field program, during subsequent First Continuing and Continuing Approval Reviews of the EPP and all programs, in addition to the reviews of each of the single field programs, a dual-field program will be reviewed as a separate program. GaPSC-approved dual-field programs are subject to the same reporting requirements as single-field programs.

11. GaPSC-approved EPPs shall make program decisions based upon program purpose, institutional mission, supply and demand data, and B/P-12 partner needs, and shall attempt to include a variety of options for program completion (e.g., multiple delivery models, degree options, and individualized programs; additional examples are provided in the guidance document accompanying this rule).

12. Ongoing GaPSC approval of educator preparation programs is contingent upon EPP approval status, the performance of the EPP and its programs, and compliance with GaPSC rules and reporting requirements. (See GaPSC Educator Preparation Rule 505-3-.02 EDUCATOR PREPARATION PROVIDER ANNUAL REPORTING AND EVALUATION.)

13. Out-of-state EPPs offering initial teacher preparation programs to Georgia residents and/or to residents of other states who fulfill field and clinical experiences in Georgia B/P-12 schools shall ensure their candidates hold the Georgia Pre-Service Certificate prior to beginning any field and clinical experiences in any Georgia B/P-12 school required during program enrollment. The requirements for this certificate are outlined in GaPSC Rule 505-2-.03 PRE-SERVICE TEACHING CERTIFICATE. Out-of-state EPPs preparing candidates for Georgia certification who are employed as a teacher of record while enrolled in their programs shall ensure their candidates hold the appropriate Georgia Teaching (T) certificate (e.g., Provisional Certificate, Permit, or Waiver Certificate). Out-of-state EPPs must also ensure their candidates meet all program assessment requirements outlined in this rule in paragraphs (3) (e) (6); the requirements specified in GaPSC Certification Rule 505-2-.22 CERTIFICATION BY STATE-APPROVED PROGRAM, paragraph (2) (d) 2; and the requirements outlined in GaPSC Certification Rule 505-2-.04 INDUCTION CERTIFICATE, including the required amount of time spent in the culminating clinical experience (i.e., student teaching or internship occurring after, and not including, field experiences), and passing the ethics and content assessments.

14. Out-of-state institutions offering initial teacher preparation programs to Georgia residents and/or to residents of other states who fulfill field and clinical experiences in Georgia B/P-12 schools are subject to all applicable data collection requirements referenced in paragraph (3) (c) 8. and described in GaPSC Rule 505-3-.02 EDUCATOR PREPARATION PROVIDER ANNUAL REPORTING AND EVALUATION.

(e) Educator Preparation Program Requirements.

1. Admission Requirements.

(i) The Georgia Educator Ethics Assessment must be passed prior to enrollment in a traditional or non-traditional initial educator preparation program and to qualify for the Pre-Service Teaching Certificate (see GaPSC Rule 505-2-.03 PRE-SERVICE TEACHING CERTIFICATE).

(ii) GaPSC-approved EPPs shall ensure candidates admitted to initial preparation programs at the post-baccalaureate level have attained appropriate depth and breadth in both general and content studies, with a minimum of a bachelor's degree from a GaPSC-accepted accredited institution. Candidates seeking certification in Career Technical and Agricultural Education (CTAE) fields must hold a high school diploma or GED, or an associate's degree or higher in the field of certification sought, as delineated in applicable GaPSC Certification Rules. CTAE candidates admitted with a high school diploma or GED must complete both the associate's degree and the initial teacher preparation program to earn a professional type certificate. The preparation program must be completed within three years; an additional year is allowable if needed to complete the associate's degree.

2. Pre-service Certificate Request.

(i) GaPSC-approved EPPs must ensure all candidates admitted and enrolled in traditional initial teacher preparation programs at the baccalaureate level or higher request the Pre-Service Certificate before beginning field and clinical experiences in Georgia B/P-12 schools, except for candidates who hold a valid Georgia Professional, Provisional, Permit, or Waiver teaching certificate, and are currently employed in a Georgia school. Out-of-state EPPs must ensure candidates enrolled in initial teacher preparation programs and completing field and clinical experiences in Georgia B/P-12 schools request the Pre-Service Certificate prior to beginning field and clinical experiences, except for candidates who hold a valid Georgia Professional, Provisional, Permit, or Waiver teaching certificate, and are currently employed in a Georgia school; such candidates must be enrolled in programs leading to a certification field issued by the GaPSC. See GaPSC Rule 505-2-.03 PRE-SERVICE TEACHING CERTIFICATE for Pre-Service certification requirements.

(ii) Successful completion of a criminal record check is required to earn the Pre-Service Certificate. See GaPSC Certification Rule 505-2-.03 PRE-SERVICE TEACHING CERTIFICATE.

3. Candidate Monitoring and Support. EPPs shall monitor each cohort aggregate GPA for changes, document any point at which the cohort GPA is less than 3.0, disaggregate the data by race and ethnicity and any other mission-related categories, analyze the data to identify specific needs for candidate support, and develop and implement plans to provide the needed supports.

4. Program Content and Curriculum Requirements.

(i) Preparation programs for educators prepared as teachers shall incorporate the latest version of the Teacher Assessment on Performance Standards (TAPS) published by the Georgia Department of Education. Preparation programs for educators prepared as leaders shall incorporate these standards into those courses related to instructional leadership to assure leadership candidates understand the TAPS standards as they apply to the preparation and continued growth and development of teachers.

(ii) GaPSC-approved EPPs shall require a major or equivalent in all middle grades, secondary, and in P-12 fields where appropriate such as certain Special Education programs, which require fifteen (15) semester hours of academic content. The equivalent of a major is defined for middle grades (4-8) as a minimum of fifteen (15) semester hours of coursework in the content field and for secondary (6-12) as a minimum of twenty-one (21) semester hours of coursework in the content field. Content field coursework must meet expected levels of depth and breadth in the content area and shall address the program content standards required for the field as delineated in GaPSC Educator Preparation Rules 505-3-.19 through 505-3-.53.

(iii) GaPSC-approved EPPs shall ensure candidates in all initial preparation programs complete a sequence of courses and/or experiences in professional studies that includes knowledge about and application of professional ethics and behavior appropriate for school and community, ethical decision-making skills, and specific knowledge about the Georgia Code of Ethics for Educators. Candidates are expected to demonstrate knowledge and dispositions reflective of professional ethics and the standards and requirements delineated in the Georgia Code of Ethics for Educators. In addition to candidates meeting the state-approved ethics assessment requirement in (e) 1. (i) and (e) 6. (iii) (see GaPSC Rule 505-2-.26 CERTIFICATION AND LICENSURE ASSESSMENTS), GaPSC-approved EPPs shall assess candidates' knowledge of professional ethics and the Georgia Code of Ethics for Educators either separately or in conjunction with assessments of dispositions.

(iv) GaPSC-approved EPPs shall ensure candidates are prepared to implement Georgia state mandated standards (i.e., Georgia Performance Standards [GPS], Georgia Standards of Excellence, College and Career Ready Standards, and all other GaDOE-approved standards) in each relevant content area. EPPs shall ensure candidates are also prepared to implement any Georgia mandated educator evaluation system. EPPs shall ensure educational leadership candidates understand all state standards and have the knowledge and skills necessary to lead successful implementation of standards in schools.

(v) GaPSC-approved EPPs shall require candidates seeking teacher certification to demonstrate knowledge of the definitions and characteristics of dyslexia and other related disorders; competence in the use of evidence-based

instruction, structured multisensory approaches to teaching language and reading skills, and accommodations for students displaying characteristics of dyslexia and/or other related disorders; and competence in the use of a multi-tiered systems of support framework addressing reading, writing, mathematics, and behavior, including:

(I) Universal screening;

(II) Scientific, research-based interventions;

(III) Progress monitoring of the effectiveness of interventions on student performance;

(IV) Data-based decision making procedures related to determining intervention effectiveness on student performance and the need to continue, alter, or discontinue interventions or conduct further evaluation of student needs; and

(V) Application and implementation of response-to-intervention and dyslexia and other related disorders instructional practices in the classroom setting.

(vi) GaPSC-approved EPPs shall require candidates seeking certification to demonstrate satisfactory proficiency in computer and other technology applications and skills, and satisfactory proficiency in integrating Information, Media and Technology Literacy into curricula and instruction, including incorporating B/P-12 student use of technology, and to use technology effectively to collect, manage, and analyze data for the purpose of improving teaching and learning. This requirement may be met through content embedded in courses and experiences throughout the preparation program and through demonstration of knowledge and skills during field and clinical experiences. Candidates shall also demonstrate the specialized knowledge and skills necessary for effective teaching in a distance learning environment.

(vii) GaPSC-approved EPPs shall require candidates seeking certification in a Teaching (T) field, the field of Educational Leadership (L), or the Service (S) fields of Media Specialist and School Counseling to complete either five (5) or more quarter hours or three (3) or more semester hours of coursework in the identification and education of children who have special educational needs or the equivalent through a Georgia-approved professional learning program with a grade of B or better. This requirement may be met in a separate course, or content may be embedded in courses and experiences throughout the preparation program (see GaPSC Rule 505-2-.24 SPECIAL GEORGIA REQUIREMENTS). In addition, candidates in all fields must have a working knowledge of Georgia's framework for the identification of differentiated learning needs of students and how to implement multi-tiered systems of support addressing the range of learning needs.

(viii) GaPSC-approved EPPs shall ensure candidates seeking teacher certification demonstrate the appropriate level of competence in the teaching of reading, as described for each Teaching (T) field in GaPSC Rule 505-3-.03 FOUNDATIONS OF READING, LITERACY, AND LANGUAGE.

(ix) GaPSC-approved EPPs offering endorsement programs shall ensure the programs are designed to result in candidates' expanded knowledge and skills in creating challenging learning experiences, supporting learner ownership and responsibility for learning, and in strengthening analysis and reflection on the impact of planning to reach rigorous curriculum goals, as specified in GaPSC Rules 505-3-.82 through 505-3-.115. Unless specified otherwise in GaPSC Rules 505-3-.82 through 505-3-.115, endorsement programs may be offered as stand-alone programs or embedded in initial preparation or degree-only programs. Embedded endorsement programs must include field experiences specifically for meeting endorsement standards and requirements, as well as any additional grade levels addressed by the endorsement. These field experiences must be in addition to those required for the initial preparation program. Although field experiences in specific grade bands are not required for endorsement programs, candidates must have opportunities to demonstrate the knowledge and skills delineated in endorsement standards in as many settings as necessary to demonstrate competence with children at all developmental levels addressed by the endorsement. In addition to field experience requirements, the GaPSC Continuing Approval process for embedded endorsement programs will require EPPs to provide evidence of meeting a minimum of one (1) of the following (2) options:

(I) Option 1: Additional Coursework. Endorsement programs are typically comprised of three (3) or four (4) courses (the equivalent of nine [9] or twelve [12] semester hours). To fully address the additional knowledge and skills delineated in endorsement standards, it may be necessary to add endorsement courses to a program of study.

(II) Option 2: Additional Assessments(s). Candidates' demonstration of endorsement program knowledge and skills must be assessed by either the initial preparation or advanced/degree-only program assessments or via additional assessment instruments specifically designed to address endorsement program content.

See the guidance document accompanying this rule for further clarification of expectations for endorsement programs.

(x) GaPSC-approved EPPs shall provide information to each candidate on Georgia's tiered certification structure, professional learning requirements, and employment options.

5. Requirements for Partnerships, and Field Experiences and Clinical Practice.

(i) Effective partnerships with B/P-12 schools and/or school districts are central to the preparation of educators. At a minimum, GaPSC-approved EPPs shall establish and maintain collaborative relationships with B/P-12 schools, which are formalized as partnerships and focused on continuous school improvement and student growth and learning through the preparation of candidates, support of induction phase educators, and professional development of B/P-20 educators. EPPs are encouraged to establish and sustain partnerships meeting higher levels of effectiveness, as described in the guidance document accompanying this rule.

(ii) GaPSC-approved EPPs shall require in all programs leading to initial certification in Teaching (T), Leadership (L), or Service (S) fields, and endorsement programs, field experiences that include organized and sequenced engagement of candidates in settings providing them with opportunities to observe, practice, and demonstrate the knowledge, skills, and dispositions delineated in all applicable institutional, state, and national standards. The experiences must be systematically designed and sequenced to increase the complexity and levels of engagement with which candidates apply, reflect upon, and expand their knowledge and skills. Since observation is a less rigorous method of learning, emphasis should be on field experience sequences requiring active professional practice or demonstration and including substantive work with B/P-12 students or B/P-12 personnel as appropriate depending upon the preparation program. Field experience placements and sequencing will vary depending upon the program. In non-traditional preparation programs, such as GaTAPP, field experiences occur outside candidates' classrooms with students with different learning needs and varied backgrounds in at least two settings during the clinical practice. Refer to the guidance document accompanying this rule for additional information related to field experiences and clinical practice.

(iii) GaPSC-approved EPPs shall ensure candidates complete supervised field experiences consistent with the grade levels of certification sought. For Birth Through Kindergarten programs, field experiences are required at three (3) age levels: ages 0 to 2, ages 3 to 4, and 5 (kindergarten). For Elementary Education programs (P-5), field experiences are required in three (3) grade levels: PK-K, 1-3, and 4-5. For middle grades education programs, field experiences are required in two (2) grade levels: 4-5 and 6-8. Programs leading to P-12 certification shall require field experiences in four (4) grade levels: PK-2, 3-5, 6-8, and 9-12; and secondary education programs (6-12) shall require field experiences in two (2) grade levels: 6-8 and 9-12.

(iv) GaPSC-approved EPPs shall ensure candidates complete supervised clinical practice (residency/internships) in the field of certification sought and only in fields for which the EPP has been approved by the GaPSC. Clinical practice for all fields must occur in regionally accredited public schools, charter schools approved by the Georgia State Charter School Commission, charter schools approved by the Georgia Department of Education, out-of-state charter schools approved by the state's charter schools commission or department of education, private schools accredited by a GaPSC-accepted accreditor, Department of Defense schools, or in international settings meeting accreditation criteria specified in GaPSC Rule 505-2-.31 GAPSC-ACCEPTED ACCREDITATION; VALIDATION OF NON-ACCREDITED DEGREES. Candidates in Birth Through Kindergarten programs may participate in residencies or internships in regionally accredited schools, in pre-schools or child care centers licensed by the Georgia Department of Early Care and Learning (DECAL, also known as Bright from the Start), Head Start, or in pre-schools accredited by USDOE- or CHEA-accepted accrediting agencies. Candidates of GaPSC-approved EPPs

must meet all applicable Pre-Service Certificate requirements, regardless of clinical practice placement location. Clinical practice must be designed and implemented cooperatively with B/P-12 partners and candidates' experiences must allow them to demonstrate their developing effectiveness and positive impact on all students' learning and development. Although year-long residencies/internships as defined herein (see paragraph (2) (av)) are recognized as most effective, teacher candidates must spend a minimum of one (1) full semester or the equivalent (500 hours) in residencies or internships. GaPSC preparation program rules for service and leadership fields may require more than one (1) full semester of clinical practice; see GaPSC Rules 505-3-.63 through 505-3-.81.

(v) B/P-12 educators who supervise candidates (mentors, cooperating teachers, educational leadership coaches/mentors, Service (S) field supervisors) in residencies or internships at Georgia schools shall meet the following requirements:

(I) B/P-12 supervisors shall have a minimum of three (3) years of experience in a Teaching (T), Leadership (L), or Service (S) role; and

(II) If the residency or internship is completed at a Georgia school requiring GaPSC certification, the B/P-12 supervisor shall hold a renewable Professional Certificate in the content area of the certification sought by the candidate. In cases where a B/P-12 supervisor holding certification in the content area is not available, the candidate may be placed with an educator with at least three (3) years of experience holding a GaPSC Permit in the content area of the certification sought by the candidate or with a professionally certified educator in a related field of certification (related fields are defined in Appendix C of the guidance document accompanying this rule). For Teaching (T) field candidates who are employed as the full-time teacher of record while completing residency or internship in a school requiring GaPSC certification, the B/P-12 supervisor must hold Professional Certification.

(III) If the residency or internship is completed at a Georgia school that has the legal authority to waive certification, the B/P-12 supervisor must hold a Clearance Certificate. See GaPSC Certification Rule 505-2-.42 CLEARANCE CERTIFICATE.

(IV) The Partnership Agreement shall describe training, evaluation, and ongoing support for B/P-12 supervisors and shall clearly delineate qualifications and selection criteria mutually agreed upon by the EPP and B/P-12 partner. The Partnership Agreement shall also include a principal or employer attestation assuring educators selected for supervision of residencies/internships are the best qualified and have received an annual summative performance evaluation rating of proficient/satisfactory or higher for the most recent year of experience.

(V) Certificate IDs (to include Clearance Certificate IDs as applicable) of B/P-12 supervisors must be entered in TPMS or NTRS, along with the Clinical Practice beginning date, by the deadlines specified above in paragraph (3) (c) 8. (ii).

It is the responsibility of GaPSC-approved EPPs and out-of-state EPPs who place candidates seeking Georgia certification in Georgia schools for field and clinical experiences to ensure these requirements are met.

6. Assessment Requirements.

(i) State-approved Content Assessment.

(I) Eligibility: EPPs shall determine traditional program candidates' readiness for the state-approved content assessment and shall authorize candidates for testing only in their field(s) of initial preparation and only at the appropriate point in the preparation program.

(II) Attempts: GaPSC-approved EPPs shall require all enrolled candidates to attempt the state-approved content assessment (resulting in an official score on all parts of the assessment) within the content assessment window of time beginning on a date determined by the EPP after program admission and ending on August 31 in the year of program completion, and at least once prior to program completion. Candidates enrolled in a traditional (IHE-based), initial preparation program at the bachelor's degree level leading to Middle Grades certification must attempt the state-approved content assessment in each of the two (2) areas of concentration, as required for program

completion and receive an official score on each assessment prior to program completion. For more information on Middle Grades areas of concentration, see GaPSC Rule 505-3-.19 MIDDLE GRADES EDUCATION PROGRAM.

(III) Passing Score: A passing score on all applicable state-approved content assessments is not required for program completion, except in the GaTAPP program (See GaPSC Rule 505-3-.05 GEORGIA TEACHER ACADEMY FOR PREPARATION AND PEDAGOGY [GaTAPP]); however, a passing score is required for state certification. See GaPSC Rule 505-2-.26 CERTIFICATION AND LICENSURE ASSESSMENTS, and GaPSC Rule 505-2-.08 PROVISIONAL CERTIFICATE.

(ii) State-approved Performance-based Assessments.

(I) Eligibility: EPPs shall determine initial preparation program candidates' readiness for the state-approved performance-based assessments in state-approved Teacher Leadership programs and Educational Leadership Tier II programs and shall authorize candidates for testing only in their field(s) of preparation and only at the appropriate point in the preparation program.

(II) Attempts: GaPSC-approved EPPs shall require candidates enrolled in state-approved Educational Leadership Tier II preparation programs to attempt the state-approved performance-based assessment (resulting in an official score on all tasks within the assessment) prior to program completion.

(III) Passing Score: A passing score on all applicable state-approved performance-based assessments is not required for program completion; however, a passing score is required for state certification. See GaPSC Rule 505-2-.26 CERTIFICATION AND LICENSURE ASSESSMENTS, 505-2-.153 EDUCATIONAL LEADERSHIP CERTIFICATE, and 505-2-.149 TEACHER LEADERSHIP.

(iii) State-approved Educator Ethics Assessment.

(I) Program Admission:

A. Candidates who enroll in initial teacher preparation programs must pass the Georgia Educator Ethics Assessment prior to beginning program coursework. Educators who hold a valid Induction, Professional, Lead Professional, or Advanced Professional Certificate are not required to pass the assessment if they enroll in an initial preparation program for the purpose of adding a new Teaching (T) field.

B. Candidates who enroll in any GaPSC-approved Educational Leadership program must pass the Georgia Ethics for Educational Leadership Assessment prior to beginning program coursework.

7. Program Completion Requirements.

(i) GaPSC-approved EPPs shall require candidates completing initial preparation programs to have a 2.5 or higher overall GPA on a 4.0 scale. Non-traditional program providers do not issue grades and therefore are not subject to this requirement; however, non-traditional EPPs must verify all program requirements are met as specified in GaPSC Rule 505-3-.05 GEORGIA TEACHER ACADEMY FOR PREPARATION AND PEDAGOGY (GaTAPP).

(ii) GaPSC-approved EPPs may accept professional learning, prior coursework, or documented experience the EPP deems relevant to the program of study in lieu of requiring candidates to repeat the same or similar coursework for credit.

(iii) GaPSC-approved EPPs shall provide, at appropriate intervals, information to candidates about instructional policies and requirements needed for completing educator preparation programs, including all requirements necessary to meet each candidate's certification objective(s), the availability of EPP services such as tutoring services, social and psychological counseling, and job placement and market needs based on available supply and demand data.

(iv) GaPSC-approved EPPs shall provide performance data to candidates that they may use to inform their individual professional learning needs during induction.

(f) Verification of Program Completion and Reporting of Ethics Violations.

1. GaPSC-approved EPPs shall designate an official who will provide evidence to the GaPSC that program completers have met the requirements of approved programs, including all applicable Special Georgia Requirements, and thereby qualify for state certification.

2. GaPSC-approved EPPs shall submit, in a timely manner, any documentation required of them by the GaPSC Certification Division for program completers seeking GaPSC certification.

3. GaPSC-approved EPPs shall ensure program completers meet all requirements of the approved program in effect at the time the candidate was officially admitted to the program and any additional program requirements with effective dates after program admission, as described elsewhere in this rule.

4. Should program completers return to their GaPSC-approved EPP more than five (5) years after completion to request verification of program completion, providers shall require those individuals to meet current preparation requirements to assure up-to-date knowledge in the field of certification sought.

5. GaPSC-approved EPPs shall immediately report to GaPSC any violations of the Georgia Code of Ethics for Educators by enrolled candidates. Failure to report ethical violations may result in changes in approval status that could include revocation of approval. Out-of-state EPPs placing candidates in Georgia schools for field and clinical experiences are expected to collaborate with Georgia B/P-12 partners to immediately report ethics violations. Procedures for reporting ethical violations are addressed in the guidance document accompanying this rule.

Cite as Ga. Comp. R. & Regs. R. 505-3-.01

AUTHORITY: O.C.G.A. § 20-2-200**.**

HISTORY: Original Rule entitled "Procedures and Standards for Approving Professional Education Units and Programs Preparing Education Personnel" adopted. F. Dec. 16, 1992; eff. July 1, 1993, as specified by the Agency.

Amended: F. June 29, 1994; eff. July 19, 1994.

Repealed: New Rule entitled "Requirements and Standards for Approving Professional Education Units Preparing Education Personnel" adopted. F. June 19, 1995; eff. July 9, 1995.

Amended: F. Aug. 13, 1997; eff. Sept. 2, 1997.

Repealed: New Rule entitled "Requirements and Standards for Approving Professional Education Units and Programs Preparing Education Personnel" adopted. F. Nov. 9, 2001; eff. Dec. 1, 2001, as specified by the Agency.

Amended: F. Aug. 20, 2004; eff. Sept. 15, 2004, as specified by the Agency.

Repealed: New Rule entitled "Requirements and Standards for Approving Professional Education Units and Educator Preparation Programs" adopted. F. Oct. 24, 2005; eff. Nov. 15, 2005, as specified by the Agency.

Amended: F. Apr. 20, 2009; eff. May 15, 2009, as specified by the Agency.

Repealed: New Rule of same title adopted. F. June 7, 2010; eff. July 15, 2010, as specified by the Agency.

Repealed: New Rule of same title adopted. F. Dec. 26, 2012; eff. Jan. 15, 2013

Repealed: New Rule entitled "Requirements and Standards for Approving Educator Preparation Providers and Educator Preparation Programs" adopted. F. Apr. 24, 2014; eff. May 15, 2014, As Specified by the Agency.

Amended: F. June 13, 2014; eff. July 3, 2014.

Amended: F. Oct. 7, 2014; eff. Oct. 15, 2014, as specified by the Agency.

Repealed: New Rule of same title adopted. F. Sept. 26, 2016; eff. Oct. 15, 2016, as specified by the Agency.

Amended: F. Dec. 20, 2017; eff. Jan. 15, 2018, as specified by the Agency.

Amended: F. Oct. 11, 2018; eff. Oct. 15, 2018, as specified by the Agency.

Amended: F. June 26, 2019; eff. July 1, 2019, as specified by the Agency.

Amended: F. Dec. 13, 2019; eff. Jan. 1, 2020, as specified by the Agency.

Amended: F. Apr. 7, 2020; eff. Apr. 15, 2020, as specified by the Agency.

Note: Correction of non-substantive typographical error in subparagraph (3)(e)4.(iv), "... see GaPSC Rules 505-3-.63 through 505-3-.8." corrected to "... see GaPSC Rules 505-3-.63 through 505-3-.81.", as requested by the Agency. Effective Apr. 15, 2020.

Amended: F. June 11, 2020; eff. July 1, 2020, as specified by the Agency.

Amended: F. Sept. 24, 2020; eff. Oct. 15, 2020, as specified by the Agency.

Amended: F. Dec. 11, 2020; eff. Jan. 1, 2021, as specified by the Agency.

Amended: F. Dec. 14, 2021; eff. Jan. 1, 2022, as specified by the Agency.

Amended: F. June 10, 2022; eff. July 1, 2022, as specified by the Agency.

Amended: F. May 30, 2023; eff. June 15, 2023, as specified by the Agency.

Amended: F. Aug. 10, 2023; eff. Aug. 15, 2023, as specified by the Agency.

Amended: F. Dec. 14, 2023; eff. Jan. 1, 2024, as specified by the Agency.

Note: Correction of non-substantive typographical error in subparagraph (2)(y), "... see GaPSC Rule 505-2-04 INDUCTION CERTIFICATE." corrected to "... see GaPSC Rule 505-2-.04 INDUCTION CERTIFICATE.", as requested by the Agency. Effective Feb. 19, 2024.

Amended: F. May 20, 2024; eff. June 15, 2024, as specified by the Agency.

Amended: F. Dec. 18, 2024; eff. Jan. 1, 2025, as specified by the Agency.

505-3-.49 Health and Physical Education Program

(1) **Purpose**. This rule states field-specific content standards for approving initial educator preparation programs that prepare individuals to teach health, physical education, and adapted physical education in grades P-12; and supplements requirements in GaPSC Rule 505-3-.01 REQUIREMENTS AND STANDARDS FOR APPROVING EDUCATOR PREPARATION PROVIDERS AND EDUCATOR PREPARATION PROGRAMS and in GaPSC Rule 505-3-.03 FOUNDATIONS OF READING, LITERACY, AND LANGUAGE.

(2) **Requirements.**

(a) To receive approval, a GaPSC-approved educator preparation provider shall offer a preparation program as described in program planning forms, catalogs, and syllabi addressing the following standards adapted from the standards published by the Society of Health and Physical Educators (SHAPE America, 2024).

1. Professional Knowledge.

(i) The program prepares candidates who know and apply disciplinary-content knowledge and concepts critical to the development of healthy and physically educated students;

(ii) The program prepares candidates who can describe and apply physiological and biomechanical concepts related to skillful movement, physical activity, fitness, and the modification of scientific principles and application of these principles for teaching individuals with disabilities;

(iii) The program prepares candidates who describe and apply motor learning, psychological/behavioral theory related to skillful movement, physical activity, and fitness;

(iv) The program prepares candidates who describe and apply motor development theory and principles related to skillful movement, physical activity, fitness, and understanding of the influence of developmental delay on motor development;

(v) The program prepares candidates who describe and apply historical, legal, philosophical, and social perspectives and issues in current-day practices in health, physical education, and adapted physical education;

(vi) The program prepares candidates who describe and apply critical elements of motor skills, performance concepts, and tactical and strategic movement concepts;

(vii) The program prepares candidates who describe and apply theoretical foundations of health behavior and principles of learning;

(viii) The program prepares candidates who describe and apply methods of assessing and promoting emotional, physical, and mental health;

(ix) The program prepares candidates who describe and apply knowledge of disease etiology and prevention practices;

(x) The program prepares candidates who identify the role of health and physical education in the coordinated school health program; and

(xi) The program educates candidates on current Georgia Department of Education rules and standards for P-12 health and physical education programs.

2. Skill and Fitness Based Competence.

(i) The program prepares candidates who have the knowledge and skills to demonstrate competent movement performance, motor skill performance in a variety of physical skills, health-enhancing fitness, and health literacy skills;

(ii) The program prepares candidates who demonstrate appropriate application of performance concepts related to skillful movement in a variety of physical activities;

(iii) The program prepares candidates who demonstrate health literacy skills of an informed consumer using a variety of reliable data resources related to health; and

(iv) The program prepares candidates who demonstrate ability to set goals, develop strategies and implement plans for maintaining and improving health.

3. Planning and Implementation.

(i) The program prepares candidates who plan and implement a variety of developmentally appropriate and differentiated learning experiences and content aligned with local, state and national standards in health education, physical education, and adapted physical education;

(ii) The program prepares candidates who design and implement short and long-term curricular plans and units that are linked to program and instructional goals, as well as a variety of student needs (i.e., students with IEPs, 504 accommodation plans, English for Speakers of Other Languages [ESOL]);

(iii) The program prepares candidates who design and implement appropriate (e.g., measurable, developmentally appropriate and differentiated, performance based) outcomes and lesson objectives in each learning domain aligned with local, state, and/or national standards;

(iv) The program prepares candidates who plan how to achieve each student's learning goals, choosing appropriate strategies and accommodations, resources, and materials to differentiate instruction for individuals and groups of learners to accommodate learner capabilities and needs;

(v) The program prepares candidates who plan, differentiate, modify and accommodate sequential instruction to accommodate learner capabilities and needs; and

(vi) The program prepares candidates to challenge and support each student's learning through appropriate content and developing skills that address individual learning differences.

4. Instructional Delivery and Management.

(i) The program prepares candidates who communicate effectively (both verbally and non-verbally) and use pedagogical skills and strategies to enhance student engagement and learning in health education, physical education, and adapted physical education;

(ii) The program prepares candidates who implement effective demonstrations, explanations, and instructional cues and prompts to link concepts to appropriate learning experiences;

(iii) The program prepares candidates who analyze student performance and provide instructional feedback which results in skill acquisition, student learning, and motivation;

(iv) The program prepares candidates to use appropriate strategies and resources to adapt instruction to the needs of individuals and groups of learners;

(v) The program prepares candidates who utilize managerial task system (i.e., rules, routines, expectations, procedures, protocols, transitions) to create and maintain an effective learning environment;

(vi) The program prepares candidates who implement strategies to help students demonstrate responsible personal and social behaviors; and

(vii) The program prepares candidates to promote safe, respectful, and organized learning environments that support all students.

5. Impact on Student Learning.

(i) The program prepares candidates who utilize assessments (formal and informal) and reflection to foster student learning and inform decisions about future teaching and changes to teacher performance, instruction and program components (i.e., eligibility, present level of performance, student progress) in health education, physical education, and adapted physical education;

(ii) The program prepares candidates who select or create appropriate assessments that will measure student achievement of goals and objectives;

(iii) The program prepares candidates who use a variety of appropriate assessments and assessment data (formative and summative) to evaluate student learning and program component effectiveness; and

(iv) The program prepares candidates who utilize cross-curricular strategies to support academics within the physical education class.

6. Professionalism.

(i) The program prepares candidates who demonstrate dispositions essential to becoming effective professionals in health education, physical education, and adapted physical education;

(ii) The program prepares candidates who demonstrate behaviors that reflect the belief that all students can become healthy and physically educated individuals;

(iii) The program prepares candidates who communicate and participate in activities that enhance interdisciplinary collaboration and lead to continuous professional learning; and

(iv) The program prepares candidates who exhibit professional conduct and model appropriate behaviors.

(b) Programs shall prepare candidates who complete field experiences in a combination of both health and physical education settings while adhering to the required grade bands for P-12 certification.

(c) The program shall prepare candidates who meet the P-12 standards for the teaching of reading as specified in Rule 505-3-.03 FOUNDATIONS OF READING, LITERACY, AND LANGUAGE (paragraph (3) (g)).

Cite as Ga. Comp. R. & Regs. R. 505-3-.49

AUTHORITY: O.C.G.A. 20-2-200**.**

HISTORY: Original Rule entitled "Political Science Education Program" adopted. F. Dec. 18, 1991; eff. Jan. 7, 1992.

Repealed: Rule reserved. F. Dec. 16, 1992; eff. July 1, 1993, as specified by the Agency.

Amended: New Rule entitled "Early Childhood Mathematics Endorsement Program" adopted. F. May 9, 2002; eff. June 1, 2002, as specified by the Agency.

Amended: F. Aug. 20, 2004; eff. Sept. 15, 2004, as specified by the Agency.

Repealed: New Rule entitled "School Nutrition Director Program" adopted. F. Oct. 24, 2005; eff. Nov. 15, 2005, as specified by the Agency.

Repealed: New Rule of same title adopted. F. June 12, 2009; eff. July 15, 2009, as specified by the Agency.

Repealed: New Rule entitled "Health and Physical Education Program" adopted. F. Apr. 24, 2014; eff. May 15, 2014, as specified by the Agency.

Amended: F. Aug. 10, 2023; eff. Aug. 15, 2023, as specified by the Agency.

Repealed: New Rule of same title adopted. F. Dec. 18, 2024; eff. Jan. 1, 2025, as specified by the Agency.

505-3-.65 School Librarian Program

(1) **Purpose.** This rule describes requirements and field-specific content standards for approving programs that prepare individuals to serve as school librarians in P-12 schools, and supplements requirements in GaPSC Rule 505-3-.01, Requirements and Standards for Approving Educator Preparation Providers and Educator Preparation Programs.

(2) **Requirements.**

(a) To receive approval, a GaPSC-approved educator preparation provider shall offer a master's or higher degree level preparation program as described in program planning forms, catalogs, and syllabi as addressing the following state-developed standards:

1. Instructional Environment.

(i) The program shall prepare candidates who are effective educators who demonstrate and respectfully accommodate the development of all learners;

(ii) The program shall prepare candidates who promote and respect the opportunity for advancement for all learners;

(iii) The program shall prepare candidates who promote a positive learning environment that encourages a lifelong love of learning and that serves as the guiding principle used in developing a school library program; and

(iv) The program shall prepare candidates who will offer all learners the opportunities and experiences that prepare them for college, a future career, and a life beyond the school library.

2. Instructional Practices.

(i) The program shall prepare candidates who collaborate with teachers, administration, and the community to plan, deliver, and assess instruction;

(ii) The program shall prepare candidates who implement a variety of evidence-based strategies in instruction;

(iii) The program shall prepare candidates who will ensure students learn and understand multiple literacies and the ethical use of information; and

(iv) The program shall prepare candidates who use data and information to reflect on and revise the effectiveness of their instruction.

3. Information Literacy.

(i) The program shall prepare candidates who use a variety of children's and young adult literature information resources and instructional technology tools to actively engage learners in the critical-thinking and inquiry process; and

(ii) The program shall prepare candidates who use a variety of strategies to foster the development of ethical digital citizens and motivated readers.

4. Management and Administration.

(i) The program shall prepare candidates who ensure the school library community is aware of and employs fair access to information and resources;

(ii) The program shall prepare candidates who use and teach others about the ethical use of resources;

(iii) The program shall prepare candidates who practice curation, creation, organization, and management of a collection that supports all learners; and

(iv) The program shall prepare candidates who use data and other forms of evidence to inform decisions about library policies, resources, and services.

5. Leadership within the Profession:

(i) The program shall prepare candidates who are leaders in the school and profession;

(ii) The program shall prepare candidates who participate and engage others in collaboration, and actively advocate for programs and stakeholders in the learning community;

(iii) The program shall prepare candidates who plan and execute professional development for staff and other school librarians; and

(iv) The program shall prepare candidates who adhere to the ethical principles of the library and information profession.

Cite as Ga. Comp. R. & Regs. R. 505-3-.65

AUTHORITY: O.C.G.A. § 20-2-200**.**

HISTORY: Original Rule entitled "Director of Media Services Program" adopted. F. Dec. 18, 1991; eff. Jan. 7, 1992.

Repealed: F. Dec. 16, 1992; eff. July 1, 1993, as specified by the Agency.

Amended: New Rule entitled "Special Education Communication Disorders Program" adopted. F. Aug. 20, 2004; eff. Sept. 15, 2004, as specified by the Agency.

Repealed: New Rule entitled "Career Exploration (PECE) Endorsement Program" adopted. F. Oct. 24, 2005; eff. Nov. 15, 2005, as specified by the Agency.

Repealed: New Rule entitled "Media Specialist Program" adopted. F. Apr. 24, 2014; eff. May 15, 2014, as specified by the Agency.

Repealed: New Rule of same title adopted. F. Apr. 13, 2016; eff. Apr. 15, 2016, as specified by the Agency.

Repealed: New Rule entitled "School Librarian Program" adopted. F. Dec. 18, 2024; eff. Jan. 1, 2025, as specified by the Agency.

505-3-.67 School Counselor Program

(1) **Purpose.** This rule states field-specific content standards for approving programs that prepare individuals for certification in the Service (S) field of School Counseling and to serve as school counselors in grades P-12. This rule supplements requirements in GaPSC Rule 505-3-.01, REQUIREMENTS AND STANDARDS FOR APPROVING EDUCATOR PREPARATION PROVIDERS AND EDUCATOR PREPARATION PROGRAMS. School counselors in Georgia are expected to function as both counselors and educators and to support the academic success, career preparedness, and whole child wellness of all P-12 students.

(2) **Requirements.**

(a) To receive approval, a GaPSC-approved educator preparation provider shall offer a preparation program at the Master's degree or higher level for school counselors described in program planning forms, catalogs, and syllabi as addressing the following standards adapted from the standards published in July 2024 by the Council for Accreditation of Counseling and Related Educational Programs (CACREP).

1. Professional Counseling Orientation and Ethical Practice.

(i) Candidates demonstrate awareness of the history and philosophy of the counseling profession and its specialized practice areas;

(ii) Candidates demonstrate awareness of the multiple professional roles and functions of counselors across specialized practice areas;

(iii) Candidates demonstrate awareness of the counselors' roles, responsibilities, and relationships as members of specialized practice and interprofessional teams, including collaboration and consultation, community outreach, and emergency response management;

(iv) Candidates demonstrate awareness of the role and process of the professional counselor advocating on behalf of and with individuals receiving counseling services to address systemic, institutional, architectural, attitudinal, disability, and social barriers that impede access, fairness, and success for all students;

(v) Candidates demonstrate awareness of the role and process of the professional counselor advocating on behalf of the profession;

(vi) Candidates demonstrate awareness of the professional counseling organizations, including membership benefits, activities, services to members, and current issues;

(vii) Candidates demonstrate awareness of the professional counseling credentialing across service delivery modalities, including certification, licensure, and accreditation practices and standards for all specialized practice areas;

(viii) Candidates demonstrate awareness of the legislation, regulatory processes, and government/public policy relevant to and impact on service delivery of professional counseling across service delivery modalities and specialized practice areas;

(ix) Candidates demonstrate awareness of the current labor market information and occupational outlook relevant to opportunities for practice within the counseling profession;

(x) Candidates demonstrate awareness of the ethical standards of professional counseling organizations and credentialing bodies, and applications of ethical and legal considerations in professional counseling across service delivery modalities and specialized practice areas;

(xi) Candidates demonstrate awareness of the self-care, self-awareness, and self-evaluation strategies for ethical and effective practice; and

(xii) Candidates demonstrate awareness of the purpose of and roles within counseling supervision in the profession.

2. Social and Cultural Identities and Experiences.

(i) Candidates demonstrate awareness of the theories and models of multicultural counseling, social justice, and advocacy;

(ii) Candidates demonstrate awareness of the influence of heritage, cultural identities, attitudes, values, beliefs, understandings, within-group differences, and acculturative experiences on individuals' worldviews;

(iii) Candidates demonstrate awareness of the influence of heritage, cultural identities, attitudes, values, beliefs, understandings, within-group differences, and acculturative experiences on help-seeking and coping behaviors;

(iv) Candidates demonstrate awareness of the effects of historical events, multigenerational trauma, and current issues on varied cultural groups in the United States and globally;

(v) Candidates demonstrate awareness of the effects of stereotypes;

(vi) Candidates demonstrate awareness of the effects of various socio-cultural influences, including public policies, social movements, and cultural values, on mental and physical health and wellness;

(vii) Candidates demonstrate awareness of the disproportional effects of poverty, income disparities, and health disparities toward people with marginalized identities;

(viii) Candidates demonstrate awareness of the principles of independence, participation, choice and self-empowerment, and access to services within and outside the counseling relationship;

(ix) Candidates demonstrate awareness of the strategies for identifying and eliminating barriers;

(x) Candidates demonstrate awareness of the guidelines developed by professional counseling organizations related to social justice, advocacy, and working with individuals with a variety of multicultural identities; and

(xi) Candidates demonstrate awareness of the role of religion and spirituality in clients' and counselors' psychological functioning.

3. Lifespan Development.

(i) Candidates demonstrate awareness of the theories of individual and family development across the lifespan;

(ii) Candidates demonstrate awareness of the theories of cultural identity development;

(iii) Candidates demonstrate awareness of the theories of learning;

(iv) Candidates demonstrate awareness of the theories of personality and psychological development;

(v) Candidates demonstrate awareness of the theories and neurobiological etiology of addictions;

(vi) Candidates demonstrate awareness of the structures for affective relationships, bonds, couples, marriages, and families;

(vii) Candidates demonstrate awareness of the models of resilience, optimal development, and wellness in individuals and families across the lifespan;

(viii) Candidates demonstrate awareness of the models of psychosocial adjustment and adaptation to illness and disability;

(ix) Candidates demonstrate awareness of the role of sexual development and sexuality related to overall wellness;

(x) Candidates demonstrate awareness of the biological, neurological, and physiological factors that affect lifespan development, functioning, behavior, resilience, and overall wellness;

(xi) Candidates demonstrate awareness of the systemic, cultural, and environmental factors that affect lifespan development, functioning, behavior, resilience, and overall wellness;

(xii) Candidates demonstrate awareness of the influence of mental and physical health conditions on coping, resilience, and overall wellness for individuals and families across the lifespan; and

(xiii) Candidates demonstrate awareness of the effects of crises, disasters, stress, grief, and trauma across the lifespan.

4. Career Development.

(i) Candidates demonstrate awareness of the models of career development, counseling, and decision-making;

(ii) Candidates demonstrate awareness of the approaches for conceptualizing the interrelationships among and between work, socioeconomic standing, wellness, disability, trauma, relationships, and other life roles and factors;

(iii) Candidates demonstrate awareness of the processes for identifying and using career, avocational, educational, occupational, and labor market information resources, technology, and information systems;

(iv) Candidates demonstrate awareness of the approaches for assessing the conditions of the work environment on clients' life experiences;

(v) Candidates demonstrate awareness of the strategies for assessing abilities, interests, values, personality, and other factors that contribute to career development;

(vi) Candidates demonstrate awareness of the career development program planning, organization, implementation, administration, and evaluation;

(vii) Candidates demonstrate awareness of the developmentally responsive strategies for empowering individuals to engage in culturally sustaining career and educational development and employment opportunities;

(viii) Candidates demonstrate awareness of the strategies for advocating for employment support for individuals facing barriers in the workplace;

(ix) Candidates demonstrate awareness of the strategies for facilitating client skill development for career, educational, and life-work planning and management;

(x) Candidates demonstrate awareness of the career and postsecondary training readiness and educational decision-making;

(xi) Candidates demonstrate awareness of the strategies for improving access to educational and occupational opportunities for people from marginalized groups; and

(xii) Candidates demonstrate awareness of the ethical and legal issues relevant to career development and career counseling.

5. Counseling Practice and Relationships.

(i) Candidates demonstrate awareness of the theories and models of counseling, including relevance to clients from multicultural backgrounds;

(ii) Candidates demonstrate awareness of the critical thinking and reasoning strategies for clinical judgment in the counseling process;

(iii) Candidates demonstrate awareness of the case conceptualization skills using a variety of models and approaches;

(iv) Candidates demonstrate awareness of the consultation models and strategies;

(v) Candidates demonstrate awareness of the application of technology related to counseling;

(vi) Candidates demonstrate awareness of the ethical and legal issues relevant to establishing and maintaining counseling relationships across service delivery modalities;

(vii) Candidates demonstrate awareness of the culturally sustaining and responsive strategies for establishing and maintaining counseling relationships across service delivery modalities;

(viii) Candidates demonstrate awareness of the counselor characteristics, behaviors, and strategies that facilitate effective counseling relationships;

(ix) Candidates demonstrate awareness of the interviewing, attending, and listening skills in the counseling process;

(x) Candidates demonstrate awareness of the counseling strategies and techniques used to facilitate the client change process;

(xi) Candidates demonstrate awareness of the strategies for adapting and accommodating the counseling process to client culture, context, abilities, and preferences;

(xii) Candidates demonstrate awareness of the goal consensus and collaborative decision-making in the counseling process;

(xiii) Candidates demonstrate awareness of the developmentally relevant and culturally sustaining counseling treatment or intervention plans;

(xiv) Candidates demonstrate awareness of the development of measurable outcomes for clients;

(xv) Candidates demonstrate awareness of evidence-based counseling strategies and techniques for prevention and intervention;

(xvi) Candidates demonstrate awareness of record-keeping and documentation skills;

(xvii) Candidates demonstrate awareness of the principles and strategies of caseload management and the referral process to promote independence, optimal wellness, empowerment, and engagement with community resources;

(xviii) Candidates demonstrate awareness of the classification, effects, and indications of commonly prescribed psychopharmacological medications;

(xix) Candidates demonstrate awareness of the suicide prevention and response models and strategies;

(xx) Candidates demonstrate awareness of crisis intervention, trauma-informed, community-based, and disaster mental health strategies; and

(xxi) Candidates demonstrate awareness of the processes for developing a personal model of counseling grounded in theory and research.

6. Group Counseling and Group Work.

(i) Candidates demonstrate awareness of the theoretical foundations of group counseling and group work;

(ii) Candidates demonstrate awareness of the dynamics associated with group process and development;

(iii) Candidates demonstrate awareness of the therapeutic factors of group work and how they contribute to group effectiveness;

(iv) Candidates demonstrate awareness of the characteristics and functions of effective group leaders;

(v) Candidates demonstrate awareness of the approaches to group formation, including recruiting, screening, and selecting members;

(vi) Candidates demonstrate awareness of the application of technology related to group counseling and group work;

(vii) Candidates demonstrate awareness of the types of groups, settings, and other considerations that affect conducting groups;

(viii) Candidates demonstrate awareness of the culturally sustaining and developmentally responsive strategies for designing and facilitating groups;

(ix) Candidates demonstrate awareness of the ethical and legal considerations relative to the delivery of group counseling and group work across service delivery modalities; and

(x) Candidates demonstrate awareness of the direct experiences in which counseling students participate as group members in a small group activity, approved by the program, for a minimum of 10 clock hours over the course of one academic term.

7. Assessment and Diagnostic Processes.

(i) Candidates demonstrate awareness of the historical perspectives concerning the nature and meaning of assessment and testing in counseling;

(ii) Candidates demonstrate awareness of the basic concepts of standardized and non-standardized testing, norm-referenced and criterion-referenced assessments, and group and individual assessments;

(iii) Candidates demonstrate awareness of the statistical concepts, including scales of measurement, measures of central tendency, indices of variability, shapes and types of distributions, and correlations;

(iv) Candidates demonstrate awareness of the reliability and validity in the use of assessments;

(v) Candidates demonstrate awareness of the culturally sustaining and developmental considerations for selecting, administering, and interpreting assessments, including individual accommodations and environmental modifications;

(vi) Candidates demonstrate awareness of the ethical and legal considerations for selecting, administering, and interpreting assessments;

(vii) Candidates demonstrate awareness of the use of culturally sustaining and developmentally appropriate assessments for diagnostic and intervention planning purposes;

(viii) Candidates demonstrate awareness of the use of assessments in academic/educational, career, personal, and social development;

(ix) Candidates demonstrate awareness of the use of environmental assessments and systematic behavioral observations;

(x) Candidates demonstrate awareness of the use of structured interviewing, symptom checklists, and personality and psychological testing;

(xi) Candidates demonstrate awareness of the diagnostic processes, including differential diagnosis and the use of current diagnostic classification systems;

(xii) Candidates demonstrate awareness of substance abuse, addictions and co-occurring conditions;

(xiii) Candidates demonstrate awareness of the procedures for assessing and responding to risk of aggression or danger to others, self-inflicted harm, and suicide;

(xiv) Candidates demonstrate awareness of the procedures for assessing clients' experience of trauma;

(xv) Candidates demonstrate awareness of the procedures for identifying and reporting signs of abuse and neglect;

(xvi) Candidates demonstrate awareness of the procedures to identify client characteristics, protective factors, risk factors, and warning signs of mental health and behavioral disorders; and

(xvii) Candidates demonstrate awareness of the procedures for using assessment results for referral and consultation.

8. Research and Program Evaluation.

(i) Candidates demonstrate awareness of the importance of research in advancing the counseling profession, including the use of research to inform counseling practice;

(ii) Candidates demonstrate awareness of the identification and evaluation of the evidence base for counseling theories, interventions, and practices;

(iii) Candidates demonstrate awareness of the qualitative, quantitative, and mixed methods research designs;

(iv) Candidates demonstrate awareness of the practice-based and action research methods;

(v) Candidates demonstrate awareness of the statistical tests used in conducting research and program evaluation;

(vi) Candidates demonstrate awareness of the analysis and use of data in research;

(vii) Candidates demonstrate awareness of the use of research methods and procedures to evaluate counseling interventions;

(viii) Candidates demonstrate awareness of the program evaluation designs and procedures, including needs assessments, formative assessments, and summative assessments to inform decision-making and advocacy;

(ix) Candidates demonstrate awareness of the culturally sustaining and developmentally relevant outcome measures for counseling services;

(x) Candidates demonstrate awareness of the ethical and legal considerations relevant to conducting, interpreting, and reporting the results of research and program evaluation; and

(xi) Candidates demonstrate awareness of the culturally sustaining and developmentally responsive strategies for conducting, interpreting, and reporting the results of research and program evaluation.

9. School Counseling Specialization.

(i) Candidates demonstrate awareness of the models of school counseling programs;

(ii) Candidates demonstrate awareness of the models of PK-12 comprehensive career development;

(iii) Candidates demonstrate awareness of the models of school-based collaboration and consultation;

(iv) Candidates demonstrate awareness of the development of school counseling program mission statements and objectives;

(v) Candidates demonstrate awareness of the design and evaluation of school counseling curriculum, lesson plan development, wide range of classroom management strategies, and differentiated instructional strategies;

(vi) Candidates demonstrate awareness of the school counselor roles as leaders, advocates, and systems change agents in PK-12 schools;

(vii) Candidates demonstrate awareness of the qualities and styles of effective leadership in schools;

(viii) Candidates demonstrate awareness of advocacy for comprehensive school counseling programs and associated school counselor roles;

(ix) Candidates demonstrate awareness of the school counselor roles and responsibilities in relation to the school crisis and management plans;

(x) Candidates demonstrate awareness of school counselor consultation with families, PK-12 and postsecondary school personnel, community agencies, and other referral sources;

(xi) Candidates demonstrate awareness of the skills to critically examine the connections of social, cultural, familial, emotional, and behavioral factors to academic achievement;

(xii) Candidates demonstrate awareness of the skills to screen PK-12 students for characteristics, risk factors, and warning signs of mental health and behavioral disorders;

(xiii) Candidates demonstrate awareness of the strategies for implementing and coordinating school-based interventions;

(xiv) Candidates demonstrate awareness of the techniques of social-emotional and trauma-informed counseling in school settings;

(xv) Candidates demonstrate awareness of evidence-based and culturally sustaining interventions to promote academic development;

(xvi) Candidates demonstrate awareness of approaches to increase promotion and graduation rates';

(xvii) Candidates demonstrate awareness of the interventions to promote postsecondary and career readiness;

(xviii) Candidates demonstrate awareness of the strategies to facilitate school and postsecondary transitions; and

(xix) Candidates demonstrate awareness of the strategies to promote student achievement and access to postsecondary education opportunities for all students.

10. Field Experiences / Clinical Practice Requirements.

(i) The counselor education program provides ongoing support to place candidates in fieldwork sites that are sufficient to provide the quality, quantity, and variety of expected experiences to prepare students for their roles and responsibilities as professional school counselors;

(ii) Supervision of practicum and internship candidates includes secure audio or video recordings and/or live supervision of students' interactions with students that are in compliance with applicable institutional, state, federal, and international privacy requirements for school counselors;

(iii) Candidates have the opportunity to become familiar with a variety of professional activities and resources, including technology, as part of their practicum and internship;

(iv) In addition to the development of individual counseling skills, during either the practicum or internship, candidates must lead or co-lead a counseling or psychoeducational group; and

(v) Formative and summative evaluations of the candidate's counseling performance and ability to integrate and apply knowledge are conducted as part of the candidate's practicum and internship.

(b) The program shall require a minimum of 700 clock hours of clinical practice with 280 direct service clock hours in a school setting under the supervision of an appropriately certified site supervisor as well as a qualified faculty member within the preparation program. A portion of this experience should occur at each of the four grade band requirements for P-12 initial preparation programs specified in GaPSC Rule 505-3-.01, REQUIREMENTS AND STANDARDS FOR APPROVING EDUCATOR PREPARATION PROVIDERS AND EDUCATOR PREPARATION PROGRAMS. To meet the grade band requirement for field experiences, these experiences may occur during field experiences embedded in courses as well as during clinical practice.

Cite as Ga. Comp. R. & Regs. R. 505-3-.67

AUTHORITY: O.C.G.A. § 20-2-200.

HISTORY: Original Rule entitled "Director of Special Education Program" adopted. F. Dec. 18, 1991; eff. Jan. 7, 1992.

Repealed: F. Dec. 16, 1992; eff. July 1, 1993, as specified by the Agency.

Amended: New Rule entitled "Special Education Physical and Health Disabilities Program" adopted. F. Aug. 20, 2004; eff. Sept. 15, 2004, as specified by the Agency.

Amended: F. July 21, 2005; eff. August 15, 2005, as specified by the Agency.

Repealed: New Rule entitled "Diversified Cooperative Training (DCT) Endorsement Program" adopted. F. Oct. 24, 2005; eff. Nov. 15, 2005, as specified by the Agency.

Repealed: New Rule entitled "Work-Based Learning Endorsement Program" adopted. F. Feb. 16, 2009; eff. Mar. 15, 2009, as specified by the Agency.

Repealed: New Rule entitled "School Counselor Program" adopted. F. Apr. 24, 2014; eff. May 15, 2014, as specified by the Agency.

Repealed: New Rule of same title adopted. F. Dec. 20, 2016; eff. Jan. 15, 2017, as specified by the Agency.

Repealed: New Rule of same title adopted. F. Dec. 18, 2024; eff. Jan. 1, 2025, as specified by the Agency.

505-3-.69 School Psychologist Program

(1) **Purpose.** This rule states field-specific content standards for approving programs that prepare individuals to serve as school psychologists in grades P-12 and supplements requirements in GaPSC Rule 505-3-.01, REQUIREMENTS AND STANDARDS FOR APPROVING EDUCATOR PREPARATION PROVIDERS AND EDUCATOR PREPARATION PROGRAMS.

(2) **Requirements.**

(a) The minimum preparation for a renewable professional certificate in school psychology is at the educational specialist's degree level. A non-renewable certificate may be issued in some circumstances as outlined in GaPSC Certification Rule 505-2-.146 SCHOOL PSYCHOLOGY.

(b) To receive approval, a GaPSC-approved educator preparation provider shall offer a preparation program described in program planning forms, catalogs, and syllabi designed to develop knowledge and practice competencies in each of the following domains based on the Model for Comprehensive and Integrated School Psychological Services (the NASP Practice Model) as outlined in The Professional Standards of the National Association of School Psychologists (2010, 2020):

1. Data-Based Decision Making.

(i) The program shall prepare candidates who understand and utilize assessment methods for identifying strengths and needs; for developing effective interventions, services, and programs; and for measuring progress and outcomes within a multi-tiered system of supports;

(ii) The program shall prepare candidates who use a problem-solving framework as the basis for all professional activities; and

(iii) The program shall prepare candidates who systematically collect data from multiple sources as a foundation for decision making at the individual, group, and systems levels, and consider ecological factors (e.g., classroom, family, and community characteristics) as a context for assessment and intervention.

2. Consultation and Collaboration.

(i) The program shall prepare candidates who understand varied models and strategies of consultation and collaboration applicable to individuals, families, groups, and systems, as well as methods to promote effective implementation of services. As part of a systematic and comprehensive process of effective decision making and problem solving that permeates all aspects of service delivery, school psychologists demonstrate skills to consult, collaborate, and communicate effectively with others.

3. Academic Interventions and Instructional Supports.

(i) The program shall prepare candidates who understand the biological, cultural, and social influences on academic skills; human learning, cognitive, and developmental processes; and evidence-based curricula and instructional strategies; and

(ii) The program shall prepare candidates who, in collaboration with others, use assessment and data collection methods to implement and evaluate services that support academic skill development in children.

4. Mental and Behavioral Health Services and Interventions.

(i) The program shall prepare candidates who, understand the biological, cultural, developmental, and social influences on mental and behavioral health; behavioral and emotional impacts on learning; and evidence-based strategies to promote social-emotional functioning; and

(ii) The program shall prepare candidates who, in collaboration with others, design, implement, and evaluate services that promote resilience and positive behavior, support socialization and adaptive skills, and enhance mental and behavioral health.

5. School-Wide Practices to Promote Learning.

(i) The program shall prepare candidates who understand systems' structures, organization, and theory; general and special education programming; implementation science; and evidence-based school-wide practices that promote learning, positive behavior, and mental health; and

(ii) The program shall prepare candidates who, in collaboration with others, develop and implement practices and strategies to create and maintain safe, effective, and supportive learning environments for students and school staff.

6. Services to Promote Safe and Supportive Schools.

(i) The program shall prepare candidates who School psychologists understand principles and research related to social-emotional well-being, resilience, and risk factors in learning, mental and behavioral health, services in schools and communities to support multi-tiered prevention and health promotion, and evidence-based strategies for creating safe and supportive schools; and

(ii) The program shall prepare candidates who, in collaboration with others, promote preventive and responsive services that enhance learning, mental and behavioral health, and psychological and physical safety and implement effective crisis prevention, protection, mitigation, response, and recovery.

7. Family, School, and Community Collaboration.

(i) The program shall prepare candidates who understand principles and research related to family systems, strengths, needs, and cultures; evidence-based strategies to support positive family influences on children's learning and mental health; and strategies to develop collaboration between families and schools; and

(ii) The program shall prepare candidates who, in collaboration with others, design, implement, and evaluate services that respond to culture and context. They facilitate family and school partnerships and interactions with community agencies to enhance academic and social-behavioral outcomes for children.

8. Fair Practices for Different Student Populations.

(i) The program shall prepare candidates who have knowledge of, and inherent respect for, individual differences, abilities, disabilities, and varied student characteristics and the effects they have on development and learning. They also understand principles and research related to differences in children, families, schools, and communities, including factors related to child development, religion, culture and cultural identity, race, sexual orientation, gender identity and expression, socioeconomic status, and other variables;

(ii) The program shall prepare candidates who implement evidence-based strategies to enhance services in both general and special education and to address potential influences related to student differences;

(iii) The program shall prepare candidates who demonstrate skills to provide professional services that promote effective functioning for individuals, families, and schools with varied characteristics, cultures, and backgrounds through an ecological lens across multiple contexts;

(iv) The program shall prepare candidates who recognize that fair practices for varied student populations, respect for differences in development and learning, and informed action for social justice are foundational to effective service delivery; and

(v) The program shall prepare candidates who work to ensure that all children have the same access to general and special educational opportunities, and that each student receives what they need to benefit from these opportunities.

9. Research and Evidence-Based Practice.

(i) The program shall prepare candidates who have knowledge of research design, statistics, measurement, and varied data collection and analysis techniques sufficient for understanding research, interpreting data, and evaluating programs in applied settings; and

(ii) The program shall prepare candidates who evaluate and apply research as a foundation for service delivery and, in collaboration with others, use various techniques and technology resources for data collection, measurement, and analysis to support effective practices at the individual, group, and/or systems levels.

10. Legal, Ethical, and Professional Practice.

(i) The program shall prepare candidates who have knowledge of the history and foundations of school psychology; multiple service models and methods; ethical, legal, and professional standards; and other factors related to professional identity and effective practice as school psychologists; and

(ii) The program shall prepare candidates who provide services consistent with ethical, legal, and professional standards; engage in responsive ethical and professional decision making; collaborate with other professionals; and apply professional work characteristics needed for effective practice as school psychologists, including effective interpersonal skills, responsibility, adaptability, initiative, dependability, technological competence, advocacy skills, respect for human differences, and a commitment to social justice and fairness.

(c) The program shall require completion of supervised practica and internship experiences in settings relevant to program objectives, (e.g., schools, clinics) and include appropriate performance-based evaluations by program faculty and supervisors to ensure that candidates are developing professional work characteristics and designated competencies consistent with the above standards. These experiences shall foster the development of competence in advocating for understanding of human differences and social justice.

1. At minimum, activities shall include opportunities to build professional competencies in:

(i) data-based decision making;

(ii) the design, implementation, and evaluation of services that support cognitive and academic skills; and

(iii) the design, implementation and evaluation of services that support socialization, behavioral and mental health, and emotional well-being.

(d) The program shall require completion of a comprehensive and carefully evaluated internship that includes field-based supervision by qualified internship supervisors.

1. For specialist-level programs, the internship shall consist of a minimum of 1,200 clock hours, including a minimum of 600 hours in a school setting.

2. For doctoral-level programs, the internship shall consist of a minimum of 1,500 clock hours, including a minimum of 600 hours in a school setting.

Cite as Ga. Comp. R. & Regs. R. 505-3-.69

AUTHORITY: O.C.G.A. § 20-2-200**.**

HISTORY: Original Rule entitled "Instructional Supervisor Program" adopted. F. Dec. 18, 1991; eff. Jan. 7, 1992.

Repealed: F. Dec. 16, 1992; eff. July 1, 1993, as specified by the Agency.

Amended: New Rule entitled "Birth to Five Program" adopted. F. Aug. 20, 2004; eff. Sept. 15, 2004, as specified by the Agency.

Repealed: New Rule entitled "Early Childhood Science Endorsement Program" adopted. F. Oct. 24, 2005; eff. Nov. 15, 2005, as specified by the Agency.

Repealed: New Rule entitled "K-5 Science Endorsement Program" adopted. F. Dec. 17, 2009; eff. Jan. 15, 2010, as specified by the Agency.

Repealed: New Rule entitled "School Psychologist Program" adopted. F. Apr. 24, 2014; eff. May 15, 2014, as specified by the Agency.

Amended: F. Dec. 22, 2014; eff. Jan. 15, 2015, as specified by the Agency.

Repealed: New Rule of same title adopted. F. Dec. 18, 2024; eff. Jan. 1, 2025, as specified by the Agency.

505-3-.73 Alternative Preparation for Speech-Language Associate Program

(1) **Purpose.** This rule states field-specific content standards for approving non-traditional programs that prepare individuals as Speech-Language Associates who provide related educational support or direct intervention for all students whose individual education program indicates instructional needs in the area of communication disorders under the direct supervision of a GaPSC-certified Speech and Language Pathologist. This rule supplements requirements in GaPSC Rule 505-3-.01 REQUIREMENTS AND STANDARDS FOR APPROVING EDUCATOR PREPARATION PROVIDERS AND EDUCATOR PREPARATION PROGRAMS.

(2) **Requirements.**

(a) Admission. Candidates must hold a Bachelor's or higher degree in Speech-Language Pathology or Communication Sciences and Disorders, and must be employed by a local school district.

(b) To receive approval for an initial preparation program, a GaPSC-approved educator preparation provider shall offer a preparation program described in program planning forms, catalogs, and syllabi as addressing the following standards for the preparation of Speech Language Pathologists published by the American Speech-Language-Hearing Association (ASHA) by the Council on Academic Accreditation in Audiology and Speech-Language Pathology (2020).

1. The program shall prepare candidates who know the principles of biological sciences, physical sciences, mathematics, and the social/behavioral sciences;

2. The program shall prepare candidates who know basic human communication and swallowing processes, including their biological, neurological, acoustic, psychological, developmental, linguistic, and cultural bases;

3. The program shall prepare candidates who know the nature of speech, language, hearing, and communication disorders and differences, including the etiologies, characteristics, anatomical/physiological, acoustic, psychological, developmental, and linguistic, and cultural correlates. Specific knowledge shall be demonstrated in the following areas:

(i) Speech sound disorders;

(ii) Receptive and expressive language (phonology, morphology, syntax, semantics, and pragmatics) in speaking, listening, reading, writing, and manual modalities;

(iii) Hearing, including the impact on speech and language;

(iv) Cognitive aspects of communication (attention, memory, sequencing, problem-solving, executive functioning);

(v) Social aspects of communication (including challenging behavior, ineffective social skills, lack of communication opportunities); and

(vi) Communication modalities (including oral, manual, augmentative, and alternative communication techniques and assistive technologies);

4. The program shall prepare candidates who possess knowledge of the principles and methods of prevention, assessment, and intervention for students with communication disorders including consideration of anatomical/physiological, psychological, developmental, and linguistic and cultural correlates of the disorders;

5. The program shall prepare candidates who know standards of ethical conduct;

6. The program shall prepare candidates who demonstrate processes used in the integration of evidence based clinical practice;

7. The program shall prepare candidates who have knowledge of certification, specialty recognition, and other relevant professional credentials;

8. The program shall prepare candidates who understand the supervisory nature of working under a certified Speech Language Pathologist;

9. The program shall prepare candidates who understand the collaborative nature of working with all stakeholders; and

10. The program shall prepare candidates who have the knowledge of individual education programs, individual learning differences, learning environments, instructional planning, and student engagement.

(c) The Alternative Preparation for Speech-Language Associate program must provide a Candidate Support Team (CST) for each candidate that provides intensive support for a minimum of one (1) academic semester. The CST must meet the following requirements:

1. The CST shall be comprised of:

(i) A school-based administrator;

(ii) A supervisor employed by the EPP; and

(iii) A GaPSC-certified Speech Language Pathologist.

2. The CST shall:

(i) Plan school-based internships to include input from the employing school or district;

(ii) Guide Speech-Language Associate candidates throughout the program, to include providing appropriate opportunities to demonstrate knowledge, skills, and dispositions reflective of current audiology and speech-language pathology research and program standards; and

(iii) Work together to meet the individual learning needs of Speech-Language Associate candidates.

(d) Speech-Language Associate candidates will participate in a school-based internship for one semester (15 weeks) and during that semester, a total of 100 hours of direct service with students in either small group, individual sessions, or in an inclusion model will be completed under the direct supervision of a GaPSC-certified Speech Language Pathologist.

Cite as Ga. Comp. R. & Regs. R. 505-3-.73

AUTHORITY: O.C.G.A. § 20-2-200**.**

HISTORY: Original Rule entitled "Alternative Preparation for Speech-Language Associate Program" adopted. F. Dec. 18, 2024; eff. Jan. 1, 2025, as specified by the Agency.

505-3-.78 Curriculum and Instruction and Educational Leadership Tier 1 Program

(1) **Purpose.** This rule states requirements for programs resulting in certification in the two fields of Curriculum and Instruction and Educational Leadership Tier I, and it supplements requirements in GaPSC Rule 505-3-.01 REQUIREMENTS AND STANDARDS FOR APPROVING EDUCATOR PREPARATION PROVIDERS AND EDUCATOR PREPARATION PROGRAMS.

(2) **Definitions.**

(a) Assessment Attempt: A candidate is considered to have attempted a state-approved assessment if it results in an official score on all parts of the assessment.

(b) Dual-field Program: An educator preparation program resulting in candidates meeting, through the completion of one degree program, all requirements and standards for two fields of certification as defined by two distinct Educator Preparation Rules.

(3) **Requirements.**

(a) Approval. To offer this dual-field program, the EPP must first be approved to offer both single-field programs. The dual-field program will be Developmentally approved through the GaPSC Substantive Change process. For

subsequent approval reviews (First Continuing and Continuing), the dual-field program will be reviewed separately from the two single-field programs.

(b) Admission. The EPP shall ensure candidates meet all admission requirements specified in GaPSC Rule 505-3-.63 CURRICULUM AND INSTRUCTION, and all Tier I admission requirements specified in GaPSC Rule 505-3-.77 EDUCATIONAL LEADERSHIP.

(c) Program Content. The EPP shall ensure candidates meet all standards and complete all requirements specified in GaPSC Rule 505-3-.63 CURRICULUM AND INSTRUCTION, and all the standards and requirements specified for Tier I preparation in GaPSC Rule 505-3-.77 EDUCATIONAL LEADERSHIP.

(d) Partnerships and Clinical Experiences. The EPP shall assure that P-12 employers and partner schools and districts agree to support candidates in meeting all program field and clinical practice requirements. The EPP shall secure fully executed Partnership Agreements with employers of all candidates before candidates begin coursework.

(e) Assessments. Candidates must attempt the state-approved content assessment for Curriculum and Instruction and the state-approved content assessment for Educational Leadership Tier I prior to program completion.

(f) EPP Agreements. The EPP shall require each admitted candidate to sign an agreement acknowledging all program and certification requirements. The agreement will specify that requirements must be met for both fields of certification and that the state-approved content assessment for both fields must be attempted prior to program completion.

Cite as Ga. Comp. R. & Regs. R. 505-3-.78

AUTHORITY: O.C.G.A. § 20-2-200.

HISTORY: Original Rule entitled "Curriculum and Instruction and Educational Leadership Tier 1 Program" adopted. F. Dec. 18, 2024; eff. Jan. 1, 2025, as specified by the Agency.

505-3-.79 Teacher Leadership and Educational Leadership Tier I Program

(1) **Purpose.** This rule states requirements for programs resulting in certification in the two fields of Teacher Leadership [a Service (S) field] and Educational Leadership Tier I [a Leadership (L) field], and it supplements requirements in GaPSC Rule 505-3-.01 REQUIREMENTS AND STANDARDS FOR APPROVING EDUCATOR PREPARATION PROVIDERS AND EDUCATOR PREPARATION PROGRAMS.

(2) **Definitions.**

(a) Assessment Attempt: A candidate is considered to have attempted a state-approved assessment when the attempt results in an official score on all parts of the assessment.

(b) Dual-field Program: An educator preparation program resulting in candidates meeting, through the completion of one degree program, all requirements and standards for two fields of certification as defined by two distinct Educator Preparation Rules.

(3) **Requirements.**

(a) Approval. To offer this dual-field program, the EPP must first be approved to offer both single-field programs. The dual-field program will be Developmentally approved through the GaPSC Substantive Change process. For subsequent approval reviews (First Continuing and Continuing), the dual-field program will be reviewed separately from the two single-field programs.

(b) Admission. The EPP shall ensure candidates meet all admission requirements specified in GaPSC Rule 505-3-.72 TEACHER LEADERSHIP, and all Tier I admission requirements specified in GaPSC Rule 505-3-.77 EDUCATIONAL LEADERSHIP.

(c) Program Content. The EPP shall ensure candidates meet all standards and complete all requirements specified in GaPSC Rule 505-3-.72 TEACHER LEADERSHIP, and all the standards and requirements specified for Tier I preparation in GaPSC Rule 505-3-77 EDUCATIONAL LEADERSHIP.

(d) Partnerships and Clinical Experiences. The EPP shall assure that P-12 employers and partner schools and districts agree to support candidates in meeting all program field and clinical practice requirements. The EPP shall secure fully executed Partnership Agreements with employers of all candidates before candidates begin coursework.

(e) Assessments. Candidates must attempt the state-approved content assessment for Teacher Leadership and the state-approved content assessment for Educational Leadership Tier I prior to program completion.

(f) EPP Agreements. The EPP shall require each admitted candidate to sign an agreement acknowledging all program and certification requirements. The agreement will specify that requirements must be met for both fields of certification and that the state-approved content assessment for both fields must be attempted prior to program completion.

Cite as Ga. Comp. R. & Regs. R. 505-3-.79

AUTHORITY: O.C.G.A. § 20-2-200**.**

HISTORY: Original Rule entitled "Teacher Leadership and Educational Leadership Tier I Program" adopted. F. Dec. 18, 2024; eff. Jan. 1, 2025, as specified by the Agency.

Department 560. RULES OF DEPARTMENT OF REVENUE

Chapter 560-11. LOCAL GOVERNMENT SERVICES DIVISION

Subject 560-11-2. SUBSTANTIVE REGULATIONS

560-11-2-.25 County Appraisal Staff - Qualifications

(1) County appraisal staff shall be classified into four classifications: Appraiser I, Appraiser II, Appraiser III, and Appraiser IV, with qualifications as follows:

(a) Appraiser I -- Under supervision and direction as an Appraiser trainee, the Appraiser I is expected to learn and do the more routine technical work in the appraisal of real and/or personal property for tax assessment purposes. The Appraiser I must:

1. successfully complete the appraiser examination set for this level by the State Revenue Commissioner;

2. be in good physical and mental health and have the ability to meet and relate to the general public effectively;

3. hold a high school diploma or its equivalent;

4. have the aptitude to learn to perform tasks assigned including reviewing maps, photography, etc., to locate property; visiting the property and gathering all information necessary to determine value; performing basic research on building costs and sales data; computing appraisal values for real and/or personal property.

(b) Appraiser II -- Under supervision and direction, the Appraiser II makes appraisals of real and/or personal property of the more common types and assists his superiors in the supervision and direction of Appraiser I personnel. The Appraiser II must:

1. successfully complete the appraiser examination set for this level by the State Revenue Commissioner;

2. hold a high school diploma or its equivalent;

3. be in good physical and mental health and have the ability to meet and relate to the general public effectively;

4. be able to make field appraisals of the average types of real and/or personal property. In this regard, he must be able to perform research on and inspect the property to gather all information necessary for appraisals such as size, zoning, use, location, quality of construction, depreciation, and market data;

5. have the ability and aptitude to learn under supervision the appraisal techniques, etc., involved in the appraisal of the more complex types of property.

(c) Appraiser III -- The Appraiser III must have the ability to make accurate appraisals of all types and classes of real and/or personal property within his jurisdiction. He must be able to effectively supervise and direct the activities of subordinate personnel. The Appraiser III must:

1. successfully complete the appraiser examination set for this level by the State Revenue Commissioner;

2. be not less than twenty-one (21) years of age;

3. hold a high school diploma or its equivalent;

4. be in good physical and mental health and have the ability to meet and relate to the general public effectively;

5. have the ability to correctly apply the three approaches to valuation in appraising properties within his jurisdiction;

6. have the ability to organize and direct the activities of subordinate personnel;

7. have the ability to perform all phases of mass appraisal and revaluation work within his jurisdiction including the ability to develop pricing and valuation schedules for the valuation of all land, improvements and personal property.

(d) Appraiser IV -- The Appraiser IV supervises the work of subordinate appraisers in the appraisal of rural, residential, commercial and industrial properties for tax assessment purposes. The Appraiser IV must:

1. successfully complete the appraiser examination set for this level by the State Revenue Commissioner;

2. have a complete knowledge of mass appraisal techniques;

3. have the ability to direct all phases of revaluation;

4. have the ability to organize effectively and direct properly the work activities of his subordinate personnel;

5. have the ability to plan and conduct necessary training programs for subordinate appraisal personnel;

6. have the ability to direct office procedures and techniques related to the appraisal-assessment process;

7. be in good physical and mental health and have the ability to meet and relate to the general public and other governmental agencies effectively;

8. be not less than twenty-one (21) years of age;

9. be a graduate of an accredited college or university with at least five (5) years of increasingly responsible experience in the appraisal field. Two (2) years of appraisal experience may be substituted for each year of college required.

(2) All county appraisal staff members must, prior to employment, successfully complete an examination approved by the Revenue Commissioner and designed to test the applicant's knowledge of appraisal techniques on all classes and types of property. These examinations shall be prepared by the Revenue Commissioner and shall be offered in regional locations at least quarterly, the sites and times to be determined by the Revenue Commissioner. The Board of Tax Assessors in each county shall be advised of dates, locations for such exams.

(3) All county appraisal staff members must successfully complete at least forty (40) hours of approved appraisal courses during each two years of tenure as an appraiser. "Approved appraisal courses" as used herein shall mean:

(a) courses designed for appraisers and offered regionally by the Revenue Commissioner, or

(b) courses offered by the Revenue Commissioner as a part of the annual short course for tax assessors in conjunction with the University of Georgia, or

(c) courses offered by and approved by the International Association of Assessing Officers, or

(d) courses at least 10 hours in length offered by either the Society of Real Estate Appraisers or the American Institute of Real Estate Appraisers and approved for course work toward the Award for the SRA or MAI designations.

Cite as Ga. Comp. R. & Regs. R. 560-11-2-.25

AUTHORITY: O.C.G.A. §§ 48-2-12**,** 48-5-263**,** 48-5-291**.**

HISTORY: Original Rule entitled "County Appraisal Staff-Qualifications" was filed on May 25, 1973; effective June 14, 1973.

Amended: Filed June 20, 1980; effective July 10, 1980.

Amended: F. Jan. 4, 2016; eff. Jan. 24, 2016.

Amended: New title, "County Appraisal Staff - Qualifications." (**Note:** Title change to *"County Appraisal Staff - Qualifications. Amended"* was omitted in History update effective 7/10/1980, title change was published in Official Compilation and on Rules and Regulations website.) F. Dec. 16, 2024; eff. Jan. 5, 2025.

Department 560. RULES OF DEPARTMENT OF REVENUE

Chapter 560-11. LOCAL GOVERNMENT SERVICES DIVISION

Subject 560-11-6. CONSERVATION USE PROPERTY

560-11-6-.02 Definitions

For the purposes of implementing O.C.G.A. § 48-5-7.4, O.C.G.A. § 48-5-269 and these regulations, the following terms are defined to mean:

(a) "Beneficial Interest," in addition to legal ownership or control, means the right to derive any profit, benefit, or advantage by way of a contract, stock ownership or interest in an estate.

(b) "Contiguous" means real property within a county that abuts, joins, or touches and has the same undivided common ownership. If an applicant's Tract is divided by a public roadway, public easement, public right of way, natural boundary, land lot line, or railroad track, then the applicant has, at the time of the initial application, a one-time election to declare the Tract as Contiguous irrespective of a county boundary, public roadway, public easement, public right of way, natural boundary, land lot line, or railroad track.

(c) "Primary Purpose or Primary Use" means the principal use to which the property is devoted, as distinct from an incidental, occasional, intermediate or temporary use for some other purpose not detrimental to or in conflict with its Primary Purpose, i.e., the devotion to and utilization of the property for the full time necessary and customary to accommodate the predominant use, e.g. the growing season, the crop cycle or planting to harvest cycle;

(d) "Qualifying Use" means the Primary Use to which the property is devoted that qualifies the property for current use valuation under O.C.G.A. § 48-5-7.4.

(e) "Renewal Covenant" means an additional ten (10) year covenant entered upon the expiration of a previous ten (10) year covenant; provided, however, that the owner may enter into a renewal contract in the ninth year of a covenant period.

(f) "Tract" means a parcel of property, less Underlying Property excluded from the covenants for residences, that is delineated by legal boundaries, levying authorities tax district boundaries, or other boundaries designated by the tax assessors to facilitate the proper identification of property on their maps and records.

(g) "Underlying Property" means the minimum lot size required for residential construction by local zoning ordinances or two (2) acres, whichever is less, for which the taxpayer has provided documents which delineate the legal boundaries so as to facilitate the proper identification of such property on the board of tax assessors maps and records.

Cite as Ga. Comp. R. & Regs. R. 560-11-6-.02

AUTHORITY: O.C.G.A. §§ 48-2-12**,** 48-5-7.4**,** 48-5-269**.**

HISTORY: Original Rule entitled "Definitions" adopted. F. May 28, 1993; eff. June 17, 1993.

Amended: F. Jun. 10, 2013; eff. Jun. 30, 2013.

Amended: F. May 18, 2015; eff. June 7, 2015.

Amended: F. Dec. 16, 2024; eff. Jan. 5, 2025.

560-11-6-.03 Qualification Requirements

In addition to those requirements of O.C.G.A. § 48-5-7.4, the following qualification requirements shall apply:

(a) Property that otherwise qualifies for current use valuation as bona fide agricultural property shall exclude the entire value of any residence and its Underlying Property. This provision for excluding the Underlying Property of a residence from eligibility in the conservation use covenant shall only apply to property that is first made subject to a covenant or is subject to the renewal of a previous covenant. Additionally, the taxpayer shall provide any one of the following types of legal descriptions regarding such Underlying Property:

1. A plat of the Underlying Property prepared by a licensed land surveyor, showing the location and measured area of the Underlying Property in question;

2. A written legal description of the Underlying Property delineating the legal metes and bounds and measured area of the Underlying Property in question; or

3. Such other alternative property boundary description as mutually agreed upon by the taxpayer and county assessor. An acceptable alternative property boundary description may include a parcel map drawn by the county cartographer or GIS technician.

(b) The owner of a Tract, lot, or parcel of land totaling less than ten (10) acres, after the appropriate Underlying Property is excluded for residential use, shall be required by the tax assessor to submit additional relevant records regarding proof of bona fide conservation use for qualified property that is either first made subject to a covenant or is subject to a renewal of a previous covenant and the following provisions shall apply:

1. If the owner of the subject property provides proof that such owner has filed with the Internal Revenue Service a Schedule E, reporting farm-related income or loss, or a Schedule F, with Form 1040, or, if applicable, a Form 4835, pertaining to such property, the provisions requiring additional relevant records regarding proof of bona fide conservation use shall not apply to such property;

2. Prior to a denial of eligibility for conservation use assessment, the tax assessor shall conduct and provide proof of a visual on-site inspection of the property; and

3. The tax assessors shall provide reasonable notice to the property owner before conducting such visual, on-site inspection of the property for the purposes of determining final eligibility.

(c) No property shall qualify for current use valuation as residential transitional property unless it is devoted to use by a single family and occupied more or less continually by the owner as the primary place of abode and for which the owner is eligible to claim a homestead exemption. The property that otherwise qualifies for current use valuation as residential transitional property shall be limited to the real property consisting of the residential improvement and no more than the contiguous five acres of land.

(d) In determining whether or not an applicant or the property in question qualifies for current use valuation provided for environmentally sensitive properties, the board of tax assessors shall require the applicant to submit a certification by the Department of Natural Resources as required by O.C.G.A. § 12-2-4(k) that the specific property is environmentally sensitive property as defined by O.C.G.A. § 48-5-7.4. Additionally, the board of tax assessors may require accompanying documentation or information including but not limited to:

1. Evidence of the legal ownership of the property;

2. Evidence that the past usage of the property demonstrates it has not been developed or significantly altered or otherwise rendered unfit for its natural environmental purpose; and

3. Evidence that the property has been and will continue to be maintained in its natural condition.

(e) In determining whether or not an applicant or the property in question qualifies for current use valuation provided for constructed storm-water wetland conservation use properties, the board of tax assessors shall require the applicant to submit a certification by the Department of Natural Resources as required by O.C.G.A. § 12-2-4 that the specific property is constructed storm-water wetlands of the free-water surface type property as defined by O.C.G.A. § 48-5-7.4. Additionally, the board of tax assessors may require accompanying documentation or information including but not limited to:

1. Evidence of the legal ownership of the property;

2. A plat of the Tract in question prepared by a licensed land surveyor, showing the location and measured area of the Tract;

3. A certification by a licensed professional engineer that the specific design used for the constructed storm-water wetland was recommended by the engineer as suitable for such site after inspection and investigation; and

4. Information on the actual cost of constructing and an estimated cost of operating the storm-water wetland, including without limitation a description of all incorporated materials, machinery, and equipment.

(f) No property shall maintain current use valuation as constructed storm water wetland conservation use property unless the owner of such property files with the board of tax assessors on or before the last day for filing ad valorem tax returns for each tax year for which conservation use valuation is sought an annual inspection report from a licensed professional engineer certifying that as of the date of such report the property is being maintained in a proper state of repair so as to accomplish the objectives for which it was designed.

(g) No property shall qualify for current use valuation as conservation use property if such valuation would result in any person who has a Beneficial Interest in such property receiving any benefit from current use valuation on more than 2,000 acres in this state in any tax year. Any person so affected shall be entitled to the benefits of current use valuation on no more than 2,000 acres of such land in this state.

(h) Except as necessary to effect the provisions of the 2,000 acre limitation, a taxing jurisdiction boundary, or to exclude any property which is under a separate covenant as residential transitional property, each covenant must encompass the entire Tract of property for which the conservation use valuation is sought. In those instances where inclusion of the total acreage of a Tract would cause the owner to exceed the 2,000 acre limitation, the owner shall be permitted to designate so much of a Contiguous area of the Tract that will equal but not exceed the 2,000 acre limitation.

Cite as Ga. Comp. R. & Regs. R. 560-11-6-.03

AUTHORITY: O.C.G.A. §§ 48-2-12**,** 48-5-7**,** 48-5-7.4**,** 48-5-269**.**

HISTORY: Original Rule entitled "Qualification Requirements" adopted. F. May 28, 1993; eff. June 17, 1993.

Repealed: New Rule of same title adopted. F. Mar. 4, 2004; eff. Mar. 24, 2004.

Amended: F. Jun. 10, 2013; eff. Jun. 30, 2013.

Amended: F. Dec. 16, 2024; eff. Jan. 5, 2025.

560-11-6-.04 Applications

(1) All applications for current use assessment shall be made using forms adopted by the commissioner for that purpose. Forms PT-283A, PT-283E, PT-283R, PT-283S and applicable questionnaires are hereby adopted and prescribed for use by the applicant seeking current use assessment. The application shall be filed with the board of tax assessors of the county in which the property is located. A board of tax assessors may not require additional information from an applicant for purposes of determining eligibility of property for current use assessment except as otherwise provided in O.C.G.A. § 48-5-7.4 and these regulations. However, the board of tax assessors must

consider any additional information submitted by the applicant in support of their application for current use assessment.

(2) It shall be the responsibility of the board of tax assessors to delineate the soil types on the tax records of the applicant's property using U.S. Department of Agriculture, Natural Resources Conservation Service soil survey maps.

(3) Applications for current use valuation provided for environmentally sensitive properties may be filed without certification by the Department of Natural Resources; provided, however, that the specific property is stipulated to be environmentally sensitive. Failure to file such certification with the board of tax assessors within thirty (30) days of the last day for filing the application for current use assessment may result in the application being denied by the board of tax assessors.

(4) Applications for current use valuation provided for constructed storm-water wetland conservation use properties shall not be certified as meeting the criteria of bona fide constructed storm-water wetlands of the free-water surface type unless an authorized employee or agent of the local governing authority has inspected the site before, during, and after construction of the storm-water wetland to determine that the property is being used for controlling or abating pollution of surface or ground waters of this state by storm-water runoff or by otherwise enhancing the water quality of surface or ground waters of this state.

(5) Withdrawals of applications for current use valuation are not tied to a specific deadline date. Rather, an application for current use valuation may be withdrawn at any time prior to the respective county's issuance of the final tax bills for the digest year in which the application for current use valuation is either first made subject to a covenant, or is subject to a renewal of a previous covenant.

(6) If a qualified owner has entered into an original bona fide conservation use covenant and subsequently acquires additional qualified property Contiguous to the property in the original covenant, the qualified owner may elect to enter the subsequently acquired qualified property into the original covenant for the remainder of the 10-year period of the original covenant subject to the following provisions:

(a) The subsequently acquired qualified property shall be less than fifty (50) acres; and

(b) Such subsequently acquired qualified property may not be subject to another existing current use covenant or preferential assessment.

(c) For the purpose of establishing the entry date of the original covenant, the assessor shall use the January 1st assessment date of the first year for which the original covenant is in effect.

(d) The covenant application for the subsequently acquired qualified property to be added to an existing covenant shall be made for the subsequently acquired qualified property only and shall reference the existing original covenant by parcel number.

(e) The original property subject to the original bona fide conservation use covenant and the subsequently acquired qualified property shall be treated as separate parcels on the county tax digest until the expiration of the original bona fide conservation use covenant. Upon the expiration of the original bona fide conservation use covenant, the properties can be merged into a single parcel upon renewal.

(7) When property receiving current use assessment and subject to a conservation use covenant is transferred to a new owner and the new owner fails to make application for the current use valuation of the current use assessment on or before the deadline for filing tax returns in the year following the year in which the transfer occurred, such failure may be taken by the board of tax assessors as evidence that a breach of the covenant has occurred. In such event, the board of tax assessors shall send to both the transferor and the transferee a notice of the board's intent to assess a penalty for breach of the covenant. The notice shall be entitled "Notice of Intent to Assess Penalty for Breach of a Conservation Use Covenant" and shall set forth the following information:

(a) the requirement of the new owner of the property to make application for the current use valuation of the current use assessment within thirty (30) days of the date of the postmark of the notice;

(b) the requirement of the new owner of the property to continuously devote the property to an applicable bona fide Qualifying Use for the duration of the covenant;

(c) the change to the assessment if the covenant is breached; and

(d) the amount of penalty if the covenant is breached.

(8) In the event the new owner fails to apply during the period provided for in paragraph (7) of this regulation, such failure may be taken by the board of tax assessors as further evidence the covenant has been breached due to the new owner's lack of qualification or intent not to continuously devote the property to an applicable bona fide Qualifying Use. In such event, the board of tax assessors shall be authorized to declare the covenant in breach and assess a penalty.

(9) When property receiving current use assessment and subject to a conservation use covenant is transferred to an estate or heirs solely as a result of the death of an owner who was a party to the covenant, the death shall constitute a breach of the entire original covenant but shall not be subject to penalty. The existing covenant shall be terminated and all qualification requirements must be met again before the property shall be eligible for current use assessment.

(10) All approved applications for current use assessment shall be filed with the clerk of the superior court in the county where the property is located.

(a) The fee of the clerk of the superior court for recording approved applications shall be paid by the owner of the property with the application for current use assessment.

(b) The board of tax assessors shall collect the recording fee from the applicant seeking current use assessment and such recording fee to be in the amount provided for in Article 2 of Chapter 6 of Title 15 and shall be paid to the clerk of the superior court when the application is filed with the clerk.

(c) If the application for current use assessment is denied, the board of tax assessors shall notify the applicant in the same manner that notices of assessment are given pursuant to O.C.G.A. § 48-5-306 and shall return any filing fee paid by the applicant.

(11) At such time as property ceases to be eligible for current use assessment, the owner of the property shall file an application for release of current use assessment with the county board of tax assessors.

(a) The board of tax assessors shall approve the release upon verification that all taxes and penalties have been satisfied.

(b) The board of tax assessors shall file the approved release in the office of the clerk of the superior court in the county in which the original covenant for current use assessment was filed. No fee shall be paid to the clerk of the superior court for recording such release.

Cite as Ga. Comp. R. & Regs. R. 560-11-6-.04

AUTHORITY: O.C.G.A. §§ 48-2-12**,** 48-5-7**,** 48-5-7.4**,** 48-5-269**,** 48-5-306**.**

HISTORY: Original Rule entitled "Applications" adopted. F. May 28, 1993; eff. June 17, 1993.

Repealed: New Rule of same title adopted. F. Mar. 1, 1995; eff. Mar. 21, 1995.

Repealed: New Rule of same title adopted. F. Feb. 24, 1997; eff. Mar. 16, 1997.

Repealed: New Rule of same title adopted. F. Mar. 10, 1999; eff. Mar. 30, 1999.

Amended: F. Feb. 2, 2000; eff. Feb. 22, 2000.

Repealed: New Rule of same title adopted. F. Mar. 4, 2004; eff. Mar. 24, 2004.

Amended: F. Dec. 20, 2006; eff. Jan. 9, 2007.

Repealed: New Rule of same title adopted. F. Dec. 9, 2008; eff. Dec. 29, 2008.

Amended: F. Jun. 10, 2013; eff. Jun. 30, 2013.

Amended: F. Dec. 16, 2024; eff. Jan. 5, 2025.

560-11-6-.05 Change of Qualifying Use

(1) During the covenant period the owner may change, without penalty, the use of the property from one Qualifying Use to another Qualifying Use, such as from timber land to agricultural land, but such owner shall be required to give notice of any such change to the board of tax assessors on or before the last day for the filing of a tax return in the county for the tax year for which the change is sought. Failure to so notify the board of tax assessors of the change in use may constitute a breach of covenant effective upon the date of discovery of the breach.

(2) When the Qualifying Use of property receiving current use assessment and subject to a conservation use covenant is changed to another Qualifying Use and the owner fails to notify the board of tax assessors on or before the deadline for filing tax returns in the year following the year in which the change in use occurred, such failure may be taken by the board of tax assessors as evidence that a breach of the covenant has occurred. In such event, the board of tax assessors shall send to the owner a notice of the board's intent to assess a penalty for the breach of the covenant. The notice shall be entitled "Notice of Intent to Assess Penalty for Breach of a Conservation Use Covenant" and shall set forth the following information:

(a) the requirement of the owner of the property currently receiving current use assessment to notify the board of tax assessors of the current Qualifying Use of the property within thirty (30) days of the date of the postmark of the notice;

(b) the requirement of the owner of the property currently receiving current use assessment to continuously devote the property to an applicable bona fide Qualifying Use for the duration of the covenant;

(c) the change to the assessment if the covenant is breached; and

(d) the amount of penalty if the covenant is breached.

(3) In the event the owner fails to respond to the notice provided for in paragraph (2) of this regulation by providing information concerning the change in use of the property to the board of tax assessors, such failure may be taken by the board of tax assessors as further evidence the covenant has been breached due to the owner's lack of response. The board of tax assessors shall be authorized to declare the covenant in breach and assess a penalty.

(4) In those instances where the property owner has duly notified the tax assessors that the use of the property has been changed from one Qualifying Use to another Qualifying Use, the board of tax assessors shall re-calculate the current use valuation of the property for said tax year in accordance with the valuation standards and tables prescribed by these regulations for the new Qualifying Use. However, the limitation on valuation increases or decreases provided for by O.C.G.A. § 48-5-269 shall be applied to the recomputed valuation as if the owner had originally covenanted the property in the new Qualifying Use.

(5) In addition to the provisions for property subject to the covenant to lie fallow or idle pursuant to O.C.G.A. § 48-5-7.4(p)(2), allowing conservation use property to lie fallow due to economic or financial hardship shall not be considered a change of Qualifying Use nor a breach of the covenant provided the owner notifies the board of tax

assessors on or before the last day for filing a tax return in the county of the land lying fallow and does not allow the land to lie fallow for more than two years within any five (5) year period.

Cite as Ga. Comp. R. & Regs. R. 560-11-6-.05

AUTHORITY: O.C.G.A. §§ 48-2-12**,** 48-5-7.4**,** 48-5-269**.**

HISTORY: Original Rule entitled "Change of Qualifying Use" adopted. F. May 28, 1993; eff. June 17, 1993.

Amended: F. Dec. 20, 2006; eff. Jan. 9, 2007.

Repealed: New Rule of same title adopted. F. Dec. 9, 2008; eff. Dec. 29, 2008.

Amended: F. Jun. 10, 2013; eff. Jun. 30, 2013.

Amended: F. Dec. 16, 2024; eff. Jan. 5, 2025.

560-11-6-.06 Breach of Covenant

(1) If a breach of covenant occurs during a tax year but before the tax rate is established for that year, the penalty for that partially completed year shall be calculated based upon the tax rate in effect for the immediately preceding tax year. However, the tax due for the partially completed year shall be the same as would have been due absent a breach.

(2) If a breach occurs on all or part of the property that was the subject of an original covenant and was transferred in accordance with O.C.G.A. § 48-5-7.4(i), then the breach shall be deemed to have occurred on all of the property that was the subject of the original covenant. The penalty shall be assessed pro rata against each of the parties to the covenant in proportion to the tax benefit enjoyed by each during the life of the original covenant.

(3) The breach shall be deemed to occur upon the occasion of any event which would otherwise disqualify the property from receiving the benefit of current use valuation. No penalty shall be imposed until the appeal of the board of tax assessors' determination of breach is concluded. After the final determination on appeal, the taxpayer shall be afforded sixty (60) days from issuance of the bill to make full payment. Once the sixty (60) day payment period has expired, the bill shall be considered past due and interest shall accrue from the original billing due date.

(4) If a covenant is breached by the original covenantor or a transferee who is related to the original covenantor within the fourth degree of civil reckoning, and where such breach occurs during the sixth through tenth years of a Renewal Covenant, the penalty imposed shall be the amount by which current use assessment has reduced taxes otherwise due for each year in which such Renewal Covenant was in effect, plus interest at the rate specified in O.C.G.A. § 48-2-40.

(5) Before a penalty is assessed, notice shall be provided to the taxpayer by the board of tax assessors that the covenant has been breached. This notice shall include the specific grounds of the breach, provide to the taxpayer notice to cease and desist the alleged breach activity, and notify the taxpayer that they have thirty (30) days as of the date of the postmark of the notice to correct the breach.

(6) If the board of tax assessors determines that a breach has occurred and the taxpayer has not corrected the situation within the time limit specified, the taxpayer has the right to appeal the determination of the breach to the board of equalization as provided in O.C.G.A. § 48-5-311.

Cite as Ga. Comp. R. & Regs. R. 560-11-6-.06

AUTHORITY: O.C.G.A. §§ 48-2-12**,** 48-2-40**,** 48-5-7.4**,** 48-5-269**.**

HISTORY: Original Rule entitled "Breach of Covenant" adopted. F. May 28, 1993; eff. June 17, 1993.

Repealed: New Rule of same title adopted. F. Mar. 10, 1999; eff. Mar. 30, 1999.

Repealed: New Rule of same title adopted. F. Dec. 9, 2008; eff. Dec. 29, 2008.

Amended: F. Jun. 10, 2013; eff. Jun. 30, 2013.

Amended: F. Dec. 16, 2024; eff. Jan. 5, 2025.

560-11-6-.07 Valuation of Qualified Property

Annually, and in accordance with the provisions and requirements of O.C.G.A. § 48-5-269, the Commissioner shall propose and promulgate by regulation as specified by the Georgia Administrative Procedure Act, tables and standards of value for current use valuation of properties whose Qualifying Use is as bona fide conservation use property. Once adopted by the Commissioner, these tables and standards of value shall be published and otherwise furnished to the boards of tax assessors and shall serve as the basis upon which current use valuation of such qualified properties shall be calculated for the applicable tax year.

(a) Conservation use land shall be divided into two use groups consisting of nine soil productivity classes each. These two use groups shall be agricultural land (crop land and pasture land) and timber land. The Commissioner shall determine the appropriate soil characteristics or site index factors for each of these eighteen soil productivity classes for use as a guide for the assessors. In those counties where the Soil Conservation Service of the U.S. Department of Agriculture has classified the soil according to its productivity, the Commissioner shall instead prepare and publish a table converting the Soil Conservation Service's codes into the eighteen soil productivity classes.

(b) The state shall be divided into the following areas for the purpose of accumulating the income and market information necessary to determine conservation use values:

1. For the purpose of determining the income of crop land and pasture land, the state shall be divided into an appropriate grouping of the nine crop-reporting districts as delineated by the Georgia Agricultural Statistical Service and which shall be referred to as agricultural districts;

2. For the purpose of determining the income of timber land, the agricultural districts shall be combined into timber zones as follows: agricultural districts #1, #2 and #3 shall compose timber zone #1, agricultural districts #4, #5 and #6 shall compose timber zone #2, and agricultural districts #7, #8 and #9 shall compose timber zone #3; and

3. For the purpose of determining the market value of agricultural land and timber land, the state shall be divided into an appropriate grouping of the nine crop-reporting districts as delineated by the Georgia Agricultural Statistical Service. Such areas shall be referred to as market regions.

(c) Sixty-five percent of the conservation use value shall be attributable to the capitalization of net income from the property and this component of total value shall be determined as follows:

1. For crop land, the income valuation increment of the conservation use valuation shall be based on the five-year weighted average of per-acre net income from those major predominant acreage crops harvested in at least 125 counties of Georgia ("base crops"). In making this calculation, the Commissioner, utilizing the latest information either published or about to be published in the Georgia Department of Agriculture's edition of Georgia Agricultural Facts and the United States Department of Agriculture Economic Research Service's Costs of Production-Major Field Crops, shall:

(i) For each year, determine for each of the nine agricultural districts the yield per acre for each of the base crops;

(ii) For each year, determine for each of the nine agricultural districts the acres harvested of each of the separate base crops and the total acres harvested of all the base crops;

(iii) For each year, determine a state-wide price received per unit of yield for each of the base crops;

(iv) For each year, determine a state-wide cost of production consisting of the typical costs incurred in the production of the base crops, including, but not limited to, the reasonable cost of planting, harvesting, overhead, interest on operating loans, insurance and management;

(v) For each year, using the determinations herein, compute for each of the nine agricultural districts, the weighted net income per acre by summing the results of the computation of each base crop's net income obtained by multiplying the yield per acre times the percentage of total acreage times the price received and then making a reduction to account for the cost of production; and

(vi) Compute for each of the nine agricultural districts, the per acre income valuation by capitalizing the average per acre weighted net income before property taxes, utilizing the rate of capitalization provided for in O.C.G.A. § 48-5-269 plus the effective ad valorem tax rate.

2. (i) For pasture land, the income valuation increment of the conservation use valuation shall be based on the five (5) year weighted average of per-acre rental rates of pasture property. In making this calculation, the Commissioner, utilizing the latest information available, shall:

(ii) Compute for each of the nine agricultural districts, the per acre income valuation by capitalizing the average per acre rental rates weighted by the acreage of hay harvested each year utilizing the rate of capitalization provided for in O.C.G.A. § 48-5-269.

3. (i) The income valuation derived for crop land and pasture land shall be combined into the income valuation for agricultural land by calculating and applying a weighted average of all crop and pasture acreage in each agricultural district.

(ii) Using soil productivity data from the Soil Conservation Service of the U.S. Department of Agriculture, determine productivity influence factors by calculating the relationships between the volumes of corn that will grow on the soils contained within each of the nine productivity classes. Apply these factors to the per acre income valuation of agricultural land to determine the income valuations for each of the nine soil productivity classes.

4. For timber land, the income valuation increment of the conservation use valuation shall be based on the five (5) year weighted average of per-acre net income from hardwood and softwood harvested in Georgia. In making this calculation the Commissioner shall:

(i) For each timber category and zone, determine for the immediately preceding five years for which information is available, the unit prices received by the sellers of standing timber in Georgia from reports received by the Commissioner of actual sales, from information furnished by the Georgia Forestry Commission, from commercially prepared publications of average sales prices, or from a combination of these sources;

(ii) For each timber category and zone, determine the average volumes of the various types of timber harvested annually in Georgia;

(iii) For each timber category and zone, compute the gross income each year from the harvests of timber by multiplying the unit price for each year times the annual average harvest volumes of each type of timber harvested;

(iv) For each timber zone, determine the acres of softwood timber land and hardwood timber land;

(v) For each timber zone, compute the weighted gross income per acre for each year by dividing the gross income from the harvest of softwoods each year by the acreage of softwood timberland; dividing the gross income from the harvest of hardwoods each year by the acreage of hardwood timberland and weighting the two resulting per acre gross incomes by the percentage of acres of softwood and hardwood timberland to total acres of timberland;

(vi) For each timber zone, determine the costs of production of timber for each year including, but not limited to, the cost of site preparation, planting, seedlings, prescribed burnings, management, marketing costs and ad valorem taxes due on the harvest or sale of timber;

(vii) For each timber zone, determine the acreages of timberland annually receiving production treatments, i.e. site preparation, planting and burning;

(viii) For each timber zone, compute the production expenses per acre incurred each year by multiplying the expense by the appropriate factor, i.e. multiply the cost of site preparation per acre by the percentage of acres annually receiving this treatment, multiply the harvest tax millage by the weighted gross income per acre;

(ix) For each timber zone, compute the net income per acre for each year by subtracting the production expenses incurred during the year from the weighted gross income per acre for that year;

(x) For each timber zone, calculate the per acre income valuation by capitalizing the average per acre net income before property taxes, utilizing the rate of capitalization provided for in O.C.G.A. § 48-5-269 plus the effective ad valorem tax rate; and

(xi) Determine productivity influence factors by calculating the relationships between the volumes of Loblolly Pine grown on each of the nine productivity classes of soil and apply these factors to the per acre income valuation for the benchmark land, to determine the income valuations for each of the nine soil productivity classes.

(d) Thirty-five percent of the conservation use value shall be attributable to values produced by a market study consisting of sales data from arms length bona fide sales of comparable real property with and for the same existing use. In determining this increment of total value, the Commissioner shall:

1. Gather a statistically valid sample of qualified sales of agricultural and timber properties;

2. Calculate a residual land value for each sale in the sample by adjusting the sales price to remove any portion representing value attributable to any component of the sale other than the land; and

3. Utilizing the residual land value sale prices, determine, as far as is practical, the relationships between the average sales price per acre for each of the nine soil productivity classes in each of the market regions.

(e) Environmentally sensitive properties and constructed storm water wetland conservation use properties shall be classified by the board of tax assessors as being within the timber land use group and shall be valued according to the current use value determined for timber land of the same or similar soil productivity class.

(f) The current use value for land lying under water, such as ponds, lakes or streams, shall be the value determined for the lowest productivity level of the predominate adjacent land use.

(g) Land utilized for an orchard or vineyard shall be classified as crop land. The trees, shrubs or vines shall be considered an improvement to the land and separately valued.

(h) Current use valuation for qualified bona fide residential transitional property shall be determined annually by the board of tax assessors by the consideration, as applicable, of the current use of such property, its annual productivity, if any, and sales data of comparable real property with and for the same existing use.

(i) Except as otherwise provided, the total current use valuation for any property, including qualified improvements, whose Qualifying Use is as bona fide conservation use property for any year during the covenant period shall not be increased or decreased by more than three percent from the current use valuation for the immediately preceding tax year or be increased or decreased during the entire covenant period by more than 34.39 percent from its current use valuation for the first year of the covenant period. The limitations imposed herein shall apply to the total value of all the conservation use property that is the subject of an individual covenant including any improvements that meet the qualifications set forth in O.C.G.A. § 48-5-7.4(a)(1); provided, however, that in the event the owner changes the use of any portion of the land, such as from timber land to agricultural land, or adds or removes therefrom any such qualified improvements, the limitations imposed by this subsection shall be recomputed as if the new uses and improvements were in place at the time the covenant was originally entered. This limitation on increases or decreases shall not apply to the current use valuation of residential transitional property.

Cite as Ga. Comp. R. & Regs. R. 560-11-6-.07

AUTHORITY: O.C.G.A. §§ 48-2-12**,** 48-5-7**,** 48-5-7.4**,** 48-5-269**.**

HISTORY: Original Rule entitled "Valuation of Qualified Property" adopted. F. May 28, 1993; eff. June 17, 1993.

Repealed: New Rule of same title adopted. F. Mar. 4, 2004; eff. Mar. 24, 2004.

Amended: F. Jun. 10, 2013; eff. Jun. 30, 2013.

Amended: F. Dec. 16, 2024; eff. Jan. 5, 2025.

560-11-6-.08 Appeals

(1) Applications for current use valuation as conservation use property or residential transitional property provided by O.C.G.A. § 48-5-7.4 shall be approved or denied by the county board of tax assessors. If the application is denied, the board of tax assessors shall notify the applicant in the same manner that notices of assessment are given pursuant to O.C.G.A. § 48-5-306. Such notice shall include the following simple non-technical assessment reason in bold font "CONSERVATION USE COVENANT APPLICATION DENIED." Appeals from the denial of an application shall be made in the same manner, according to the same time requirements, and decided in the same manner that other ad valorem tax assessment appeals are made pursuant to O.C.G.A. § 48-5-311.

(2) For the first year of the covenant period the taxpayer shall be notified by the board of assessors of the current use valuation placed on the property for that year. Appeals shall be made and decided in the same manner as other ad valorem tax assessment appeals are made and decided pursuant to O.C.G.A. § 48-5-311.

(3) During the covenant period the taxpayer shall be given notification of any change in the current use valuation made by the board of tax assessors for the then current tax year. Appeals shall be made and decided in the same manner as other ad valorem tax assessment appeals are made and decided pursuant to O.C.G.A. § 48-5-311.

(4) Appeals regarding the current use valuation of conservation use property under paragraphs (2) and (3) of this regulation may be made contesting the board of tax assessor's initial determination or subsequent change of the Qualifying Use of the property, the soil classification of any part or all of the qualified property, the valuation of any qualified improvements, the assessment ratio utilized with regard to the qualified property; as well as with regard to any alleged errors that may have been made by the assessors in the application of the tables and standards of value prescribed by the Commissioner. An appeal, however, may not be made to the local board of tax assessors concerning the tables or standards of value prescribed by the Commissioner pursuant to Regulation 560-11-6-.09.

(5) The tax assessors shall continue to notify the taxpayer of any changes to the fair market value of the covenanted property, and such notice shall conform to the provisions of O.C.G.A. § 48-5-306. A taxpayer desiring to appeal such changes shall do so in the same manner as other assessment appeals are made pursuant to O.C.G.A. § 48-5-311.

Cite as Ga. Comp. R. & Regs. R. 560-11-6-.08

AUTHORITY: O.C.G.A. §§ 48-2-12**,** 48-5-7.4**,** 48-5-269**,** 48-5-306**,** 48-5-311**.**

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Department 560. RULES OF DEPARTMENT OF REVENUE

Chapter 560-11. LOCAL GOVERNMENT SERVICES DIVISION

Subject 560-11-10. APPRAISAL PROCEDURES MANUAL

560-11-10-.08 Personal Property Appraisal

(1) **Personal property identification.** The appraisal staff shall identify personal property, determine its taxability, and classify it for addition to the county ad valorem tax digest in accordance with this paragraph.

(a) **Distinguishing personal property.** The appraiser shall be required to correctly identify personal property and distinguish it from real property where the proper valuation procedures, as set forth in this Rule, may be followed.

1. Examples. As used in this Chapter, personal property shall be that property defined in Rule 560-11-10-.02(1)(r). This Rule shall provide illustrations to assist the appraiser in the proper interpretation of the definition. However, these illustrations should not be construed in a manner that conflicts with the definition. Examples of personal property are tangible items such as aircraft; boats and motors; inventories of retail stock, finished manufactured or processed goods, goods in process, raw materials and supplies; furniture, personal fixtures, trade fixtures, machinery and equipment.

2. Identification of trade fixtures. When property the appraiser believes is a trade fixture has not been returned by the tenant, the appraiser shall require the tenant to produce their lease agreement and shall carefully review the agreement before making a recommendation to the board of tax assessors regarding the classification of the property in question. The appraiser shall inform the tenant that they may redact, at their option, any information relating to the payments that are required by the lease agreement.

(b) **Assessment date.** Code section 48-5-10 provides that each return by a property owner shall be for property held and subject to taxation on January 1 of the tax year. The appraisal staff shall base their decisions regarding the taxability, tax situs, uniform assessment, and valuation of personal property on the circumstances of such property on January 1 of the tax year for which the assessment is being prepared. When personal property is transferred to a new owner or converted to a new use, the circumstances of such property on January 1 shall nevertheless be considered as controlling.

(c) **Freeport exemptions.**

1. **Mailing applications.** The appraisal staff shall, by U.S. mail, send a new freeport exemption application to any person, firm or corporation that was approved for freeport exemption by the board of tax assessors for the tax year proceeding the tax year for which the application is to be made. The application provided by the appraisal staff shall be deposited with the local post office no later than the 15th day after the official who is responsible for receiving returns has opened the books for returns. The failure of the appraisal staff to comply with this requirement shall not relieve a person, firm or corporation from the responsibility to timely file a freeport application.

2. **Reviewing applications.** The appraisal staff shall, upon receipt of a freeport application, reconcile the figures reported on such form to any inventory totals that may have been returned by the property owner. The appraisal staff may obtain relevant information as is available from financial records or other records of the property owner when needed to reconcile the figures reported on the application. Once the appraisal staff has completed the reconciliation of the freeport application, they shall forward the application and their recommendations, along with any supporting documentation, to the board of tax assessors. When the appraisal staff recommends the freeport application be denied, in whole or in part, they shall include the reasons for their recommendation.

(d) **Tax situs.** The appraisal staff shall inquire into the proper tax situs of personal property before preparing the proposed assessment to ensure that the property owner is made subject to only those taxes that may legally be

levied. The tax situs inquiry shall be sufficiently specific to determine whether the property is subject to tax by each of the authorities authorized to levy taxes in the county.

1. **General tax situs.** Unless otherwise provided in subparagraph (d) of this paragraph, the appraisal staff shall consider the tax situs of personal property to be as provided in this subparagraph.

(i) **Tax situs of personal property of Georgia residents.** The appraisal staff shall consider the tax situs of personal property owned by a Georgia resident as being the domicile of the owner unless such property has acquired a business situs elsewhere. The appraisal staff shall consider the tax situs of personal property owned by a Georgia resident and used in connection with a business as being the location of the business. In making the determination of tax situs, the appraisal staff shall consider such factors as the principal location of the personal property, the base from which its operations normally originate and whether the personal property is connected with some business enterprise that is situated more or less permanently in the county, as distinguished from an enterprise whose location is merely transitory or temporary. When personal property used in connection with a business is moved about in such a manner that it is not predominantly located during the year in one place, the appraisal staff shall consider the headquarters of the business as the tax situs.

(ii) **Tax situs of personal property of non-residents.** The appraisal staff shall consider the tax situs of personal property owned by non-residents as being where the property is located. The appraisal staff shall recommend to the board of tax assessors a "no tax situs" status for any personal property owned by a nonresident who does not maintain a place of business in Georgia and who gives the personal property to a commercial printer in Georgia for printing services to be performed in Georgia.

2. **Tax situs of boats.** In accordance with Code section 48-5-16(d), the appraisal staff shall consider the tax situs of a boat to be the tax district wherein lies the domicile of the owner, even when the boat is located within another tax district in the county. When the boat is functionally located for recreational or convenience purposes for 184 days or more in a county other than where the owner is domiciled, the appraisal staff shall consider the tax situs of the boat to be where it is functionally located.

3. **Tax situs of aircraft.** In accordance with Code section 48-5-16(e), the appraisal staff shall consider the tax situs of an aircraft to be the tax district wherein lies the domicile of the owner, even when the aircraft is located within another tax district in the county. When the aircraft's primary home base is in a county other than where the owner is domiciled, the appraisal staff shall consider the tax situs of the aircraft to be where it is principally hangered or tied down and out of which its flights normally originate.

4. **Tax situs of foreign merchandise in transit.** The appraisal staff shall recommend to the board of tax assessors a "no tax situs" status for foreign merchandise that is in transit through this state. The recommendation of "no tax situs" shall be made regardless of the fact that while the foreign merchandise is in the warehouse it is assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled, or repackaged. The grant of "no tax situs" status shall be liberally construed. In deciding whether goods are foreign, the appraisal staff shall determine if the point of origin is a non-domestic shipping port. In deciding whether goods are in transit, the appraisal staff shall consider whether the interruption in the transport of the goods may be characterized as having a business purpose or advantage, rather than just being an incidental interruption in the continuity of transit.

(e) **Assessments of personal property used on state contracts.** Under Code section 50-17-29(e)(1), the appraisal staff shall not propose an assessment upon the personal property of any contractor or subcontractor as a condition to or result of the performance of a contract, work, or services by such contractor or subcontractor in connection with any project being constructed, repaired, remodeled, enlarged, serviced, or destroyed for, or on behalf of, the state or any of its agencies, boards, bureaus, commissions, and authorities. The appraisal staff shall inquire into the nature of the use of such property and prepare their proposed assessment in accordance with this Subparagraph.

1. **Personal property located in headquarters' county.** When the tax situs of the personal property being used on state projects is in the same county as where the property owner's permanent business headquarters and administrative offices are located, and such property is not used exclusively for the state projects contemplated by Code section 50-17-29(e)(1), the appraisal staff shall not apportion their proposed assessment of the property. When such property is used exclusively for such state projects, such property is made exempt by Code section 50-17-

29(e)(1) from ad valorem taxation by the county and the appraisal staff shall treat such property as exempt property is treated.

2. **Personal property not located in headquarters' county.** When the tax situs of the personal property being used on state projects is in a county other than where the property owner's permanent business headquarters and administrative offices are located, and such property would not be located in the county absent the state projects, then the appraisal staff shall apportion their proposed assessment of such property as follows: The exempt portion of the personal property being used on state projects shall be that pro rata portion of the total value of such property that represents the percentage the contractor or subcontractor can reasonably demonstrate is likely to represent the portion of their business that will result from state projects during the tax year. The appraisal staff may consider the percentage of income, production output, or time attributable to state projects during the preceding year. The appraisal staff shall consider any information submitted by the property owner regarding the basis for the apportionment. The appraisal staff shall not apportion the personal property when the property owner fails to provide reasonable evidence necessary to determine the portion of the property owner's business that will result from state projects during the year.

(f) **Partial assessments.** Unless specifically provided by law and this Rule, the appraisal staff shall not prepare a partial appraisal based on the fact that personal property is owned or used during the year in a manner that would make it exempt part of the year and taxable part of the year.

(2) **Classification.** The appraisal staff shall classify personal property as provided in Rule 560-11-2-.21 for inclusion in the county tax digest.

(3) **Return of personal property.** In accordance with Code section 48-5-299(a), the appraisal staff, on behalf of the board of tax assessors, shall investigate diligently and inquire into the property owned in the county for the purpose of ascertaining what real and tangible personal property is subject to taxation in the county and to require the proper return of the property for taxation. The appraisal staff shall make such investigation as may be necessary to determine the value of any property upon which for any reason all taxes due the state or the county have not been paid in full as required by law. In all cases where taxes are assessed against the owner of property, the appraisal staff shall prepare a proposed assessment on the property according to the best information obtainable.

(a) **Information sources.** The appraisal staff should develop and maintain information sources for the discovery of unreturned personal property.

(b) **Returns.** Property owners shall use Department of Revenue authorized return forms when returning personal property. No other forms shall be provided for this purpose to property owners by the county official responsible for receiving returns unless previously approved in writing by the Revenue Commissioner.

1. **Authorized return forms.** The returns described in this subparagraph shall be authorized for use when returning personal property.

(i) **Form PT-50P.** The return form PT-50P, entitled "Business Personal Property Tax Return," may be used for the return of business personal property

(ii) **Form PT-50PF.** The return form PT-50PF, entitled Application for Freeport Exemption," may be used for the application for freeport exemption.

(iii) **Form PT-50M.** The return form PT-50M, entitled "Marine Personal Property Tax Return," may be used for the return of boats.

(iv) **Form PT-50A.** The return form PT-50A, entitled "Aircraft Personal Property Tax Return," may be used for the return of aircraft.

2. **Obtaining returns from receiver.** Each year, after the deadline for filing returns, the appraisal staff shall secure the returns from the official responsible for receiving returns on or before the tenth day following such deadline.

3. **Automatic returns.** In accordance with Code section 48-5-20, the appraisal staff shall deem any property owner that does not file a return by the deadline as returning for taxation the same property as was returned or deemed to have been returned in the preceding tax year at the same valuation as the property was finally determined to be subject to taxation in the preceding year.

(c) **Reporting schedules.** Property owners shall use Department of Revenue authorized reporting schedules when reporting supporting information for authorized return forms. No other reporting schedules shall be provided for this purpose to property owners by the county official responsible for reviewing returns unless previously approved in writing by the Revenue Commissioner. A property owner may attach other schedules or documents that provide further support for the value they have placed on their personal property return. The appraisal staff shall consider all additional information submitted by the property owner with the return and reporting schedules. The reporting schedules required by Rule 560-11-10-.08(3)(c) and appropriate for the type of personal property being returned and any other information submitted with the return by the property owner are made confidential by Code section 48-5-314 and shall be treated as such by the appraisal staff. The appraisal staff shall not consider as fully returned any property that is omitted, misrepresented, or undervalued on the supporting reporting schedules and accompanying property owner documents, as these provide the basis for the property owner's declarations of value on the return and are necessary for the board of assessors to carry out their responsibility under Code section 48-5-299 to, through their appraisal staff, to ascertain what personal property is subject to taxation in the county and to require the proper return of the property for taxation.

1. **Authorized reporting schedules.** The reporting schedules described in this subparagraph shall be authorized for use when reporting information to support the return of personal property.

(i) **Schedule A.** The reporting schedule entitled "Schedule A" may be used to list and describe any furniture, trade fixtures, personal fixtures, machinery and equipment that is included on the property owner's return.

(ii) **Schedule B.** The reporting schedule entitled "Schedule B" may be used to list and describe any inventory that is included on the property owner's return.

(iii) **Schedule C.** The reporting schedule entitled "Schedule C" may be used to list and describe any construction in progress that is included on the property owner's return.

(iv) **Schedule D.** The reporting schedule entitled "Schedule D" may be used to list and describe any boats that are included on the property owner's return.

(v) **Schedule E.** The reporting schedule entitled "Schedule E" may be used to list and describe any aircraft that are included on the property owner's return.

(4) **Verification.** The appraisal staff shall review and audit the returns in accordance with policies and procedures set by the county board of tax assessors consistent with Georgia law and this Rule.

(a) **Omissions and undervaluations.** If not otherwise prohibited by law or this Rule, the appraisal staff shall recommend an additional assessment to the board of tax assessors when any review or audit reveals that a property owner has omitted from their return any property that should be returned or has failed to return any of their property at its fair market value. The appraisal staff shall recommend a reduced assessment to the board of tax assessors when any review or audit reveals that a property owner has overstated the amount of personal property subject to taxation.

(b) **Reassessments.** The appraisal staff shall recommend to the board of tax assessors a new assessment when the property owner has omitted personal property from their return or failed to return personal property at its fair market value, when such omission or undervaluation has been discovered by an audit conducted pursuant to Rule 560-11-10-.08(4)(d). The appraisal staff shall not be precluded from conducting such an audit merely because a change of assessment has been made on the personal property as a result of a review conducted pursuant to Rule 560-11-10-.08(4)(c). However, the appraisal staff may not recommend to the board of tax assessors a reassessment of the same personal property for which an audit has been conducted pursuant to Rule 560-11-10-.08(4)(d) and a final assessment has already been made by the board.

(c) **Review.** The purpose of a review is to determine if a property owner has correctly and fully completed their return and reporting schedules. It is based upon the good-faith disclosures of the property owner and information that is readily ascertainable by the appraisal staff. The review of an owner's return may consist of, but is not limited to, an analysis of any improper omissions or inclusions, improperly applied or omitted depreciation, and improperly applied or omitted inflation or deflation of the value of the owner's property. The examination should include a comparison of the current return information with return information from prior years. The appraiser should contact the owner or their agent by an on-site visit, telephone call, or written correspondence to attempt to resolve any questionable items. Returns with unresolved discrepancies, unexpected values, or incomplete information should be escalated to an audit.

(d) **Audits.** The purpose of an audit is to gather information that will allow the appraiser to make an accurate determination of the fair market value of the property owned by the property owner and subject to taxation. An audit is an examination of the records of the property owner to make an independent determination of the fair market value of such property where such determination does not solely depend upon the good faith disclosures of the property owner and information that is readily ascertainable by the appraisal staff. The appraisal staff shall perform, consistent with Georgia Law and policies that are established by the board of tax assessors, audits of the records of the property owners to verify the returns of personal property. These audits may take place at any time within the three-year statute of limitations, which begins on the date the personal property was required by law to be returned.

1. **Scope of audit.** The audit may be an advanced desk audit of certain additional property owner records that are voluntarily submitted or obtained by subpoena from the property owner or a complex on-site detailed audit of the property owner's books and records combined with a physical inspection of the personal property. The documents the appraisal staff should secure include, but are not limited to, schedules and authorized reporting forms; a balance sheet or other type of financial record that for a particular location reflects the business' book value as of January 1 of the tax year being audited; a ledger of capitalized personal property items held on January 1 of the tax year being audited; and an income statement.

(i) **Use of subpoena.** The appraiser should request that the board of tax assessors subpoena, within the limitations of their subpoena powers, any existing documents the property owner fails to provide voluntarily, when these documents are deemed by the appraiser to be critical to the audit. Since the appraiser may not request a subpoena for documents that do not presently exist in the format needed, the appraiser should seek existing documents held by the property owner and solicit the owner's voluntary cooperation in obtaining these documents.

2. **Contracts with auditing specialists.** The appraiser shall secure non-disclosure statements from any contracted audit specialist to ensure that such specialist shall conform with the confidentiality provisions of Code section 48-5-314 and shall not disclose the property owner's confidential records to unauthorized persons or use such confidential records for purposes other than the county's review for ad valorem tax purposes of the tax return and supporting documentation. The appraisal staff shall provide a copy of such non-disclosure statement to the property owner upon such owner's request. The appraiser shall not recommend to the board of tax assessors any contract or agreement with an audit specialist that provides for such specialist to contingently share a percentage of the tax collected as a result of any audits such specialist may perform.

(i) **Notice to property owner.** The lead appraiser shall ensure that the property owner is sent a notice that they have been selected for an audit of their personal property holdings for ad valorem tax purposes. The notice shall, at a minimum, indicate the following: the purposes and goals of the audit and the law authorizing the audit; the name of the lead appraiser who is primarily responsible for the conduct of the audit; the names of the members of the audit team who will be performing the audit; the number of years that will be audited; a description of the type records that should be made available; a description of how the audit will be conducted; the range of dates desired for the audit; and the contact information, should the property owner wish to contact the lead appraiser. The notice shall contain a statement that the lead appraiser will be contacting the property owner by telephone to establish the date and time of the audit and to determine the availability and location of records. At the conclusion of the audit, if there is sufficient evidence to warrant a recommended change of assessment, the lead appraiser shall have prepared a list of preliminary audit findings and provide such list to the property owner to afford them an opportunity to meet and discuss the findings and view any supporting schedules and documents relied upon by the individuals conducting the audit. After any such meeting requested by the property owner, the lead appraiser shall have prepared the final audit report and proposed assessment and provide a copy to the property owner and the board of tax assessors.

(e) **Audit selection criteria.** The appraisal staff shall recommend to the board of tax assessors a review and audit selection criteria, and the appraisal staff shall follow such criteria when adopted by the board. The criteria should be designed to maximize the number of personal property returns that may be reviewed or audited with existing resources. The criteria should be fair, unbiased, and developed consistent with the requirements of Code section 48-5-299. All personal property accounts should be reviewed or audited at least once every three years.

(f) **Property owner records.** The appraisal staff should first endeavor to obtain the records necessary to substantiate the information returned or reported by the property owner through the voluntary cooperation of the property owner. When such voluntary cooperation is not forthcoming, and the records requested from the property owner are believed by the appraiser to be critical for the proper appraisal of the personal property, the appraiser may request that the board of tax assessors issue an appropriate subpoena for such records. The appraiser may request that the board of tax assessors issue an appropriate subpoena for the testimony of any individuals the appraiser believes possesses knowledge critical to the determination of the fair market value of the property owner's personal property.

1. **Record types.** The types of records for which the appraisal staff may request subpoenas include, but are not limited to, the following: chart of accounts, general ledger, detailed subsidiary ledgers, journals of original entry, balance sheet, income statement, annual report, Securities Exchange Commission Form 10K. The types of records the appraisal staff may not request the board of tax assessors to issue subpoenas for include the following:

(i) **Income tax returns.** Forms and schedules authorized by the Internal Revenue Service or the revenue collecting agencies of the several states for use in filing income tax returns to those agencies;

(ii) **Property appraisals.** A property appraisal that the property owner has obtained prior to any appeal that is filed as a result of a change of assessment being made to the property owner's personal property;

(iii) **Insurance policies.** An insurance policy that may contain valuation estimates of the insured personal property; or

(iv) **Tenant sales information.** A rent roll or document containing the individual tenant sales information on the property owner's rented or leased personal property.

(5) **Valuation procedures.** The appraisal staff shall follow the provisions of this paragraph when performing their appraisals. Irrespective of the valuation approach used, the final results of any appraisal of personal property by the appraisal staff shall in all instances conform to the definition of fair market value in Code section 48-5-2 and this Rule.

(a) **General procedures.** The appraisal staff shall consider the sales comparison, cost, and income approaches in the appraisal of personal property. The degree of dependence on any one approach will change with the availability of reliable data and the type of property being appraised.

1. **Information presented by property owner.** The appraisal staff shall consider any timely information presented by the property owner that may have reasonable relevance to the appraisal of the owner's personal property. The appraisal staff shall consider the effect of any factors discovered during the review or audit of the return or directly presented by the property owner that may reduce the value of the owner's personal property, including, but not limited to all forms of depreciation, shrinkage, theft and damage.

2. **Selection of approach.** With respect to machinery, equipment, personal fixtures, and trade fixtures, the appraisal staff shall use the sales comparison approach to arrive at the fair market value when there is a ready market for such property. When no ready market exists, the appraiser shall next determine a basic cost approach value. When the appraiser determines that the basic cost approach value does not adequately reflect the physical deterioration, functional or economic obsolescence, or otherwise is not representative of fair market value, they shall apply the approach or combination of approaches to value that, in their judgment, results in the best estimate of fair market value. All adjustments to the basic cost approach shall be documented to the board of tax assessors.

3. **Rounding.** The appraisal staff may express the final fair market value estimate to the board of tax assessors in numbers that are rounded to the nearest hundred dollars.

(b) **Special procedures.** The appraisal staff shall observe the procedures in this Subparagraph when appraising inventory and construction in process.

1. **Valuation of inventory.** When appraising inventory, the appraisal staff shall consider the value of inventory to consist of all the charges incurred from its original state as raw material to its final resting place for ultimate consumption, including such items as freight and other overhead charges, with the exception of the cost of the final sale. The appraisal staff shall also consider factors contributing to any loss of value including, but not limited to, obsolescence, shrinkage, theft and damage.

2. **Construction in progress.** Property owners who are constructing or installing a large piece or line of production equipment may be required by generally accepted accounting principles to accrue the total costs associated with such equipment in a holding account until the construction or installation is complete and the equipment is ready for production, at which time, the property owner is permitted by such principles to post the total cost to a fixed asset account, taking appropriate depreciation. If such holding account is maintained by the property owner, the appraisal staff shall consider the total cost reported in the property owner's holding account when appraising such property. Construction in progress shall be appraised in the same manner as other similar personal property, taking into account that there may be little or no physical deterioration on such property and that the fair market value may be diminished due to the incomplete state of construction. If comparable sales information of personal property under construction is generally not available and there is no other specific evidence to measure the probable loss of value if the property is sold in an incomplete state of construction, the appraisal staff may multiply the identified total cost of construction by a uniform market risk factor of .75.

3. **Overhauls.** When appraising machinery, equipment, furniture, personal fixtures, and trade fixtures, the appraisal staff shall consider the cost of all expenditures, both direct and indirect, relating to any efforts to overhaul an asset to modernize, rebuild, or otherwise extend the useful life of such asset. The following procedure is to be used by the appraisal staff to estimate the value of an overhauled asset. An adjustment to the original cost of the asset is made to reflect the cost of the components that have been replaced. The cost of the overhaul is divided by an index factor representing the accumulated inflation or deflation from the year of acquisition of the asset on which the overhaul was performed to the year of the overhaul. This amount is then subtracted from the original cost of the asset being overhauled. The remainder is then multiplied by the composite conversion factor for the year of the original acquisition as specified in Rule 560-11-10-.10. The current year's composite conversion factor is then applied to the cost of the overhaul, and these two figures are combined to represent the estimate of value for the overhauled asset.

(c) **Level of trade.** The appraisal staff shall recognize three distinct levels of trade: the manufacturing level, the wholesale level, and the retail level. The appraiser shall take into account the incremental costs that are added to a product as it advances from one level to another that may increase its value as a final product. The appraisal staff shall value the property at its level of trade.

(d) **Ready markets.** When the appraiser lacks sufficient evidence to demonstrate the existence of a ready market, he or she shall consider any evidence submitted by the property owner demonstrating that a ready market is available. When the property owner cannot prove the existence of a reliable ready market, the appraiser may use other valuation approaches as authorized by law and Rule 560-11-10-.08(5).

1. **Liquidation sales.** The appraisal staff should recognize that those liquidation sales that do not represent the way personal property is normally bought and sold may not be representative of a ready market. For such sales, the appraisal staff should consider the structure of the sale, its participants, the purchasers, and other salient facts surrounding the sale. After considering this information, the appraisal staff may disregard a sale in its entirety, adjust it to the appropriate level of trade, or accept it at face value.

(e) **Sales comparison approach.** The sales comparison approach uses the sales of comparable properties to estimate the value of the subject property being appraised.

1. **Widely used pricing guides.** The appraisal staff should make a reasonable effort to obtain and use generally accepted pricing guides that are published and widely used within the market. When using such a guide to estimate the comparative sales approach value, the appraiser shall begin with the listed retail price and then make any value adjustments as provided in the guide instructions, based on the best information available about the subject property being appraised.

2. **Lesser-known pricing guides.** The property owner may submit, and the appraisal staff shall consider, lesser known publications, periodicals and price lists of the specific types of personal property being returned. Such lists should be regularly consulted by buyers of the type of personal property reported, and should list prices at which sellers, who regularly deal in the types of property reported, typically offer such property for sale.

(i) **Validation of lesser pricing guides.** In all cases where unpublished, unrecognized, or unverified sales data are submitted by the property owner, the steps the appraiser may take to validate such data include, but are not limited to, the following:

(I) **Arm's length transactions.** as defined in O.C.G.A. 48-5-2(.1): "'Arm's length, bona fide sale' means a transaction which has occurred in good faith without fraud or deceit carried out by unrelated or unaffiliated parties, as by a willing buyer and a willing seller, each acting in his or her own self-interest, including but not limited to a distress sale, short sale, bank sale, or sale at public auction." Transactions where the lien holder receives or repossesses the property and deed under power of sale transactions are not to be applied as an arm's length transaction.

(II) **Representativeness.** Verify that the sales data submitted is either all-inclusive or has been randomly selected, so as to be unbiased and fairly represent the market for the personal property being appraised. This may be accomplished by contacting known dealers of the subject personal property to determine whether other significant market data exists that supports the data submitted by the property owner.

(III) **Financing.** Adjust the sale price of the subject property for non-conventional financing.

(IV) **Time of sale.** Adjust the sale price of the subject property for the date of sale in order to estimate the value as of the January 1 assessment date.

(V) **Discounts.** Adjust the sale price to remove trade and cash discounts.

(VI) **Comparability.** Adjust the sale price of the subject property for characteristics of the subject not found in the sales to which it is being compared, such as condition, use, and extra or missing features.

3. **Other factors.** To finalize the sales comparison approach, the appraiser shall consider any other factors appropriate to the approach which may affect the value. When the comparative sales approach is used as the basis for the appraisal of personal property, the appraiser shall not make further adjustments to the value to reflect economic obsolescence, functional obsolescence, or inflation.

(f) **Cost approach.** The cost approach arrives at an estimate of value by taking the replacement or reproduction cost of the personal property and then reducing this cost to allow for physical deterioration, functional and economic obsolescence.

1. **General procedure.** In applying the cost approach to personal property during a review or audit of a return, the appraiser shall identify the year acquired, and total acquisition costs, including installation, freight, taxes, and fees. The acquisition costs shall then be adjusted for inflation and deflation and then depreciated as appropriate to reflect current market values.

2. **Book value.** The appraiser should recognize that the appraisal and accounting practices for depreciating personal property might differ. Accounting practices provide for recovery of the cost of an asset, whereas appraisal practices strive to estimate the fair market value related to the current market. The appraiser should consider depreciation in the forms of physical deterioration, functional obsolescence, and economic obsolescence, which may not necessarily

be reflected in the book value. The appraiser should consider that accounting practices of property owners might also differ.

3. **Valuation as a whole.** The appraiser may arrange the individual items of personal property into groups with similar valuation characteristics and value such group as a whole when the itemized appraisals of each item of personal property will not add substantially to the accuracy of the determination of the cost approach value.

4. **Basic cost approach.** The appraisal staff shall determine the basic cost approach value of machinery, equipment, furniture, personal fixtures, and trade fixtures using the following uniform four-step valuation procedures: Determine the original cost new of the item of personal property to the property owner; determine the uniform economic life group for the item of personal property; and multiply the original cost new times the uniform composite conversion factor appropriate for the economic life group and actual age of the item of personal property. Then determine a salvage value of any item of personal property when it is taken out of use at the end of its expected economic life.

(i) **Original cost new.** The appraisal staff shall determine the original cost new of the item of machinery, equipment, furniture, personal fixtures, and trade fixtures. Any real improvements to the real property, including real fixtures that had to be installed for the proper operation of the property, shall be included in the appraisal of the real property and not included in the basic cost approach value of the personal property. Those portions of transportation costs and installation costs that do not represent normal and customary costs for the type of personal property being appraised shall be excluded from the original cost new when determining the basic cost approach value.

(ii) **Economic life groups.** When determining the basic cost approach value of machinery, equipment, furniture, personal fixtures, and trade fixtures, the appraisal staff shall separate the individual items of property into four economic life groupings that most reasonably reflect the normal economic life of such property as specified in this subparagraph. The appraiser shall use Table B-1 and B-2 of the current Publication 946 of the U.S. Treasury Department Internal Revenue Service, to classify the individual asset into the appropriate economic life group. For property that does not appear in such publication, the appraisal staff may determine the appropriate economic life group based on the best information available, including, but not limited to, the property owner's history of purchases and disposals.

(I) **Group I.** The appraisal staff shall place into Group I any assets that have a typical economic life between five and seven years.

(II) **Group II.** The appraisal staff shall place into Group II any assets that have a typical economic life between eight and twelve years.

(III) **Group III.** The appraisal staff shall place into Group III any assets that have a typical economic life of thirteen years or more.

(IV) **Group IV.** The appraisal staff shall place into Group IV any assets that have a typical economic life of four years or less. The appraisal staff shall also place into Group IV those assets classified as Asset Class 00.12 in Publication 946 of the U.S. Treasury Internal Revenue Service, Table B-1.

(iii) **Composite conversion factors.** The appraisal staff shall, in accordance with this Rule, use the composite conversion factors as provided in Rule 560-11-10-.10 and apply the appropriate factor to the original cost new of personal property to arrive at the basic cost approach value.

(iv) **Basic cost approach value.** The basic cost approach value shall be determined by multiplying the composite conversion factor times the original cost new of operating machinery, equipment, furniture, personal fixtures, and trade fixtures.

(v) **Salvage value.** Once personal property is taken out of service at or after the end of its typical economic life, it shall be considered salvage until disposed of and the appraiser shall determine a basic cost approach value by taking ten percent of the original cost new of such property. The basic cost approach value for property withdrawn from

active use but retained as backup equipment shall be one-half the basic cost approach value otherwise applicable for such property.

5. **Further depreciation to basic cost approach value.**

(i) **Physical deterioration.** The appraiser shall consider any evidence presented by the property owner demonstrating physical deterioration that is unusual for the type of personal property being appraised.

(ii) **Functional obsolescence.** The appraisal staff shall consider any evidence presented by the property owner demonstrating functional obsolescence for the type of personal property being appraised. One method the appraisal staff may use to determine the amount of functional obsolescence is to trend the original cost new for inflation to arrive at the reproduction cost new, and then deduct the cost of a newer replacement model with similar or improved functionality.

(iii) **Economic obsolescence.** The appraisal staff shall consider any evidence presented by the property owner demonstrating economic obsolescence for the type of personal property being appraised. One method the appraisal staff may use to determine the amount of economic obsolescence is to capitalize the difference between the economic rent of an item of personal property before and after the occurrence of the adverse economic influence.

(g) **Income approach.** The income approach to value estimates the value of personal property by determining the current value of the projected income stream. This approach is most applicable to machinery, equipment, furniture, personal fixtures, and trade fixtures. The approach should only consider the income directly attributable to the personal property being valued and not the income attributable to the real or intangible personal property forming the same business. The appraisal staff may use one of the following methods when using the income approach for the appraisal of applicable personal property:

1. **Straight-line capitalization method.** The straight-line capitalization method estimates the income approach value of personal property by computing the investment necessary to produce the net income attributable to the personal property. In essence, it is determined by first computing the potential gross income for a subject property by taking the monthly rent, when that is the rental basis, and multiplying that total by twelve months. The potential gross income is then adjusted to a net operating income by subtracting any expenses that legitimately represent the costs necessary for production of that income. The net operating income will represent the amount of revenue left after operating expenses that is available to return the investment, pay property tax on the property, and return a profit to the owner.

(i) **Income and expense analysis.** While complete data is not required on each individual property, there must be sufficient data to develop typical unit rents, typical collection loss ratios, and typical expense ratios for various type properties. Income and expense figures used in the income approach must reflect current market conditions and typical management. Actual figures may be used when they meet this criterion. When actual figures are not available or appear to be unrepresentative, typical figures should be used. Income and expense analysis builds upon the following important components: typical unit rent, potential gross rent, collection loss, typical gross income, typical expenses, and typical net income. Excluded are expenses such as depreciation charges, debt service, income taxes, and business expenses not associated with the property.

(ii) **Capitalization.** Capitalization involves the conversion of typical net income into an estimate of value. The estimated income is divided by the capitalization rate to arrive at the estimated income approach value. The capitalization rate consists of three components: the discount rate, the recapture rate, and the effective tax rate. The discount rate represents the amount of return a prudent investor could reasonably expect on an investment in the subject property. The recapture rate represents the return of the potential investment. The effective tax rate represents the portion of the income stream allocated to pay resulting ad valorem taxes on the property.

(I) **Discount rate.** The appraiser should calculate the appropriate discount rate through a method known as the band of investment. The band of investment represents the weighted-average cost of the money needed to purchase the applicable personal property. The appraiser determines the percentage of the cost typically borrowed and multiplies this percentage times the typical cost of borrowing. The appraiser then determines the remaining percentage of the

cost typically contributed by an investor and multiplies this percentage times the expected rate of return to the investor. An analysis of similar properties might reveal the discount rate typical for a property of a given type.

(II) **Recapture rate.** The appraiser should calculate the recapture rate by dividing one by the number of years remaining in the economic life of the subject property. The resulting percentage is the current year's recapture rate.

(III) **Effective tax rate.** The appraiser should calculate the effective tax rate by multiplying the forty percent assessment level times the tax rate in the jurisdiction in which the subject property is located. The effective tax rate is included in the capitalization rate because market value is yet unknown and property taxes can be addressed as a percentage of that unknown value in lieu of their inclusion as an expense in calculation of net annual income.

2. **Direct sales analysis method.** The direct sales analysis method estimates the income approach value of personal property by computing the relationship between income and sales data. This relationship is expressed as a factor. The method represents a blend of the sales comparison and income approaches because it involves application of income data in conjunction with sales data. Sales of items similar to the subject property are divided by the gross rents, for which they or identical properties are leased, to develop gross income multipliers. A gross income multiplier is selected as typical for the market, and multiplied against the gross income of the subject, or that of an identical property, to result in an estimated value. Limiting the income to rental income only produces a gross rental multiplier.

(i) **Gross income or rent multiplier.** The appraiser should compute the gross income multiplier by dividing the typical gross income on the personal property by the typical sales price of the personal property. The appraiser should compute the gross rent multiplier by dividing the typical gross rent on the personal property by the typical sales price of the personal property. The appraiser must identify the specific item of personal property to be valued and determine the typical gross income as gross income is determined in Rule 560-11-10-.08(5)(g)(1)(i). The item is then stratified according to its typical use. Typical use strata may include, but are not limited to, office equipment, light-duty manufacturing equipment, heavy-duty manufacturing equipment, retail sales equipment, furniture, personal fixtures, trade fixtures, restaurant equipment, or any other stratum the appraiser believes will have similar sensitivity to market fluctuations as the subject item. The appraiser may develop an individual multiplier on a single item of personal property when there are sufficient sales and rent information. This multiplier may then be used for similar items of personal property for which there may be limited sales and rent information. The income approach value estimate is computed by multiplying the estimated gross income times the gross income multiplier or the gross rent times the gross rent multiplier.

(I) **Adjustments.** Income data and sales prices used in the development of income multipliers should be reasonably current. Older sales may be matched against recent income figures when the sales are adjusted for time. Sales must also be adjusted for financing, condition, optional equipment, and level-of-trade.

(6) **Final estimate of fair market value.** After completing all calculations, considering the information supplied by the property owner, and considering the reliability of sales, cost, income and expense information, the appraiser will correlate any values indicated by those approaches to value that are deemed to have been appropriate for the subject property and form their opinion of the fair market value. The appraisal staff shall present the resulting proposed assessment, along with all supporting documentation, to the board of tax assessors for an assessment to be made by that board.

Cite as Ga. Comp. R. & Regs. R. 560-11-10-.08

AUTHORITY: O.C.G.A. §§ 48-2-12, 48-5-2, 48-5-5, 48-5-10, 48-5-11, 48-5-12, 48-5-16, 48-5-18, 48-5-20, 48-5-105, 48-5-105.1, 48-5-264, 48-5-269, 48-5-269.1, 48-5-291, 48-5-292, 48-5-295, 48-5-299, 48-5-300, 48-5-314, 50-17-29**.**

HISTORY: Original Rule entitled "Personal Property Appraisal" adopted. F. Sept. 20, 1999; eff. Oct. 10, 1999.

Amended: ER. 560-11-10-0.2-.08 adopted. F. Jan. 19, 2011; eff. Jan. 20, 2011, as specified by the Agency.

Amended: F. Nov. 9, 2011; eff. Nov. 29, 2011.

Amended: F. Mar. 24, 2017; eff. Apr. 13, 2017.

Amended: F. Dec. 16, 2024; eff. Jan. 5, 2025.

560-11-10-.10 Table of Composite Conversion Factors

(1) Commencing with the 2025 calendar year, appraisal staff shall use the composite conversion factors as provided in this subparagraph and apply the appropriate factor to the original cost new of personal property to arrive at the basic cost approach value. The last composite conversion factor in each economic life group shall not be trended and shall represent the residual value. Such values shall be updated periodically at the discretion of the Department.

(a) Group I composite conversion factors. The following composite conversion factors shall be applied to Group I assets: Y1-.84, Y2-.68, Y3-.60, Y4-.43, Y5-.22, Y6-.20. Thereafter the residual composite conversion factor shall be .15.

(b) Group II composite conversion factors. The following composite conversion factors shall be applied to Group II assets: Y1-.91, Y2-.82, Y3-.80, Y4-.78, Y5-.66, Y6-.54, Y7-.42, Y8-.29, Y9-.21. Thereafter the residual composite conversion factor shall be .15.

(c) Group III composite conversion factors. The following composite conversion factors shall be applied to Group III assets: Y1-.95, Y2-.90, Y3-.89, Y4-.87, Y5-.86, Y6-.84, Y7-.83, Y8-.76, Y9-.67, Y10-.59, Y11-.51, Y12-.43, Y13-.36, Y14-.28, Y15-.23. Thereafter the residual composite conversion factor shall be .15.

(d) Group IV composite conversion factors. The following composite conversion factors shall be applied to Group IV assets: Y1-.76, Y2-.51, Y3-.30. Thereafter the residual composite conversion factor shall be .10.

Cite as Ga. Comp. R. & Regs. R. 560-11-10-.10

AUTHORITY: O.C.G.A. §§ 48-2-12**,** 48-5-269**,** 48-5-269.1**.**

HISTORY: Original Rule entitled "Table of Composite Conversion Factors" adopted. F. Dec. 16, 2024; eff. Jan. 5, 2025.

Department 560. RULES OF DEPARTMENT OF REVENUE

Chapter 560-11. LOCAL GOVERNMENT SERVICES DIVISION

Subject 560-11-11. FOREST LAND PROTECTION

560-11-11-.01 Definitions

(1) As used in this Regulatory Chapter, the term:

(a) "Application" shall mean the application for QFLP designation, which includes a three part form consisting of: Section A - Application; Section B - Questionnaire; and Section C - Covenant. All three parts of the application shall be completed by the applicant seeking the QFLP designation and recorded by the Local Board of Tax Assessors upon approval.

(b) "Contiguous" shall mean real property within a county that abuts, joins, or touches and has the same undivided common ownership.

1. If an applicant's tract is divided by a county boundary, public roadway, public easement, public right-of-way, natural boundary, land lot line or railroad track then the applicant has, at the time of the initial Application, a one-time election to declare the tract as Contiguous irrespective of a county boundary, public roadway, public easement, public right-of-way, natural boundary, land lot line or railroad track.

(c) "Department" shall mean the Georgia Department of Revenue.

(d) "Entity Registered to Do Business in This State" shall mean any firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or other group or combination acting as a unit, body politic, or political subdivision, whether public, private, or quasi-public that is registered to do business with the Secretary of the State of Georgia or that has been created by a court.

(e) "FLPA" shall mean the Georgia Forest Land Protection Act of 2008 as codified in O.C.G.A. § 48-5-7.7.

(f) "Forest Land" shall mean the timbered area of a tract of land as determined by the Local Board of Tax Assessors.

(g) "Local Board of Tax Assessors" shall mean the local board of tax assessors in any county where the Application is filed and the real property is located.

(h) "Notice of Breach" shall mean the notice sent by the Local Board of Tax Assessors in the county where the breach has occurred.

(i) "Permissible Breach" shall mean a breach enumerated in O.C.G.A. § 48-5-7.7(p), which will serve to terminate the QFLP Covenant. However, the breaching party is not subject to penalties and interest.

(j) "Plat" shall mean a legible drawing done on, at a minimum, 8 ½ x 11 20lb paper sufficiently delineating the boundaries of the tract of real property for which QFLP designation is sought.

1. All Plats shall be drawn with the top of the page being north.

(k) "QFLP" shall mean Qualified Forest Land Property that shall consist of 200 acres or more in aggregate which lies within one or more counties, provided such Forest Land is in parcels of at least 100 acres within any given county, of which one-half or more of the area of each parcel is used for a qualifying purpose and

1. That meets the qualifications set forth in FLPA;

2. That has been approved by the Local Board of Tax Assessors; and

3. For which a QFLP Covenant has:

(i) Been signed on behalf, or by all parties owning an undivided interest in the fee simple tract; and

(ii) Had all pages recorded in any appropriate county's real property index.

(l) "QFLP Covenant" shall mean fifteen (15) years for all covenants approved which began prior to January 1, 2019, and ten (10) years for all covenants which began January 1, 2019, or later, as required by O.C.G.A. § 48-5-7.7. The form of the covenant shall be in the manner prescribed by the Commissioner.

(m) "Qualified Owner" means any individual or individuals or any Entity Registered to Do Business in This State.

(n) "Secondary Use" shall mean secondary uses of the tract as specified in FLPA as determined by the Local Board of Tax Assessors.

(o) "Underlying Property" means the minimum lot size required for residential construction by local zoning ordinances or two acres, whichever is less, for which the taxpayer has provided documents which delineate the property boundaries so as to facilitate the proper identification of such property on the Application and the Local Board of Tax Assessors maps and records.

Cite as Ga. Comp. R. & Regs. R. 560-11-11-.01

AUTHORITY: O.C.G.A. §§ 48-2-12**,** 48-5-7**,** 48-5-7.7**,** 48-5-271**.**

HISTORY: Original Rule entitled "Table of Forest Land Protection Act Land Use Values" adopted. F. Apr. 15, 2009; eff. May 5, 2009.

Amended: ER. 560-11-11-0.40-.01 entitled "Definitions" adopted. F. May 22, 2009; eff. May 22, 2009, the date of adoption.

Amended: Permanent Rule of same title adopted. F. June 26, 2009; eff. July 16, 2009.

Amended: F. May 18, 2015; eff. June 7, 2015.

Amended: F. Dec. 16, 2024; eff. Jan. 5, 2025.

560-11-11-.02 Withdrawing a QFLP Application

(1) Withdrawals for QFLP are not tied to a specific deadline date. Rather, an Application may be withdrawn at any time prior to the respective county's issuance of the final tax bills for the digest year in which the Application is either first made subject to a covenant, or is subject to a renewal of a previous covenant.

(2) The notification for withdrawing the Application shall be considered received by the Local Board of Tax Assessors when hand delivered or when date stamped by the United States Postal Service.

Cite as Ga. Comp. R. & Regs. R. 560-11-11-.02

AUTHORITY: O.C.G.A. §§ 48-2-12**,** 48-5-7.7**.**

HISTORY: Original Rule entitled "Withdrawing or Amending an Application for QFLP" adopted as ER. 560-11-11-0.40-.02. F. and eff. May 22, 2009, the date of adoption.

Amended: Permanent Rule of same title adopted. F. June 26, 2009; eff. July 16, 2009.

Amended: F. May 18, 2015; eff. June 7, 2015.

Amended: New title, "Withdrawing a QFLP Application." F. Dec. 16, 2024; eff. Jan. 5, 2025.

560-11-11-.03 QFLP Qualifications

(1) The Local Board of Tax Assessors shall be responsible for approving all Applications. Applications made by applicants that do not constitute Qualified Owners will be denied.

(2) Real property for which QFLP designation is sought shall meet all requirements as set forth in O.C.G.A. § 48-5-7.7 and:

(a) At least one-half of area of the applicant's tract of real property for which QFLP designation is sought must be used for a Qualifying Purpose as set forth in O.C.G.A. § 48-5-7.7, and Department regulations;

(b) The portion of the tract not being used for a Qualifying Purpose must not be used for any other type of business other than as set forth in O.C.G.A. § 48-5-7.7; and

(c) Uses of any portion of the tract not being used for a Qualifying Purpose may be deemed acceptable uses by the Local Board of Tax Assessors, and therefore not in breach of the QFLP Covenant, provided that:

1. The Local Board of Tax Assessors determines that such portion is:

(i) Minimally managed so that it does not contribute significantly to erosion or other environmental or conservation problems; or

(ii) Being used for any Secondary Uses.

(3) Tracts that include cellular phone tower pad areas may qualify, subject to the limitation set forth at the end of this Section (3). Specifically, the area around cellular phone tower pads used or maintained as part of the pad, shall not constitute a breach of the QFLP Covenant if:

(a) The tract is less than 2,000 acres, the total area of the pads does not exceed six (6) acres, or

(b) For tracts larger than 2,000 acres, the total area of cellular phone tower pads does not exceed six (6) acres for every 2,000 acres.

(c) Any roadway to the cellular phone tower pads shall not be included in the determination of the six (6) acre maximum.

Any portion of each six (6) acre area described in Sections 3(a) - 3(c) above shall cease to be subject to the covenant as of the date of the execution of the applicable lease and shall be split into a separate parcel. The newly created parcel shall be subject to ad valorem taxation at fair market value.

(4) To obtain QFLP designation for a Contiguous tract of real property located in multiple counties, the applicant must enter into a single QFLP Covenant for the entire Contiguous tract. This QFLP Covenant must be approved and recorded in each county where the Contiguous tracts are located.

(a) If one or more counties deny an Application, any portions of the Contiguous tract which are approved may still be eligible for QFLP designation provided that

1. Any remaining tract or tracts meets the minimum qualifications as set forth in O.C.G.A. § 48-5-7.7, and Department regulations;

2. The QFLP Covenant is signed by all owners and the appropriate Local Board(s) of Tax Assessors; and

3. All pages are recorded in the appropriate county's real property index.

(5) The QFLP Covenant shall be effective upon the county signing and recording the QFLP Covenant in the real property index.

(a) Any appeals to the denial of QFLP designation or failure by the Local Board of Tax Assessors to sign the Covenant, shall be made in the manner provided for in O.C.G.A. § 48-5-311.

1. If an appeal is not resolved until the subsequent year after the filing of the Application and the applicant receives a favorable decision on the appeal, then the applicant shall be entitled to the benefits derived from the QFLP Covenant beginning in the year for which the Application was filed.

(6) Property that otherwise qualifies for a QFLP Covenant shall exclude the entire value of any residence and its Underlying Property. This provision for excluding the Underlying Property of a residence from eligibility in the conservation use covenant shall only apply to property that is first made subject to a covenant or is subject to the renewal of a previous covenant. Additionally, in conjunction with the Application, the taxpayer shall provide any one of the following types of property boundary descriptions regarding such Underlying Property:

(a) A Plat of the Underlying Property prepared by a licensed land surveyor, showing the location and measured area of the Underlying Property in question;

(b) A written legal description of the Underlying Property delineating the legal metes and bounds and measured area of the Underlying Property in question; or

(c) Such other alternative property boundary description as mutually agreed upon by the taxpayer and the Local Board of Tax Assessors. An acceptable alternative property boundary description may include a parcel map drawn by the county cartographer or GIS technician.

Cite as Ga. Comp. R. & Regs. R. 560-11-11-.03

AUTHORITY: O.C.G.A. §§ 48-2-12**,** 48-5-7.7**.**

HISTORY: Original Rule entitled "QFLP Qualifications" adopted as ER. 560-11-11-0.40-.03. F. and eff. May 22, 2009, the date of adoption.

Amended: Permanent Rule of same title adopted. F. June 26, 2009; eff. July 16, 2009.

Amended: F. May 18, 2015; eff. June 7, 2015.

Amended: F. Dec. 16, 2024; eff. Jan. 5, 2025.

560-11-11-.04 QFLP Application

(1) The Commissioner hereby adopts the form in Regulation 560-11-11-.11 Exhibit (A), as the form to be used by all counties as the QFLP Application.

(2) All applicants for QFLP designation shall include with their Application:

(a) A Plat of the tract for which QFLP designation is sought; or

(b) A written legal description of the tract.

(3) If a legal description or Plat is contested by the county, then the county shall have the burden to prove its assertion that the Plat or legal description as provided by the applicant is deficient.

Cite as Ga. Comp. R. & Regs. R. 560-11-11-.04

AUTHORITY: O.C.G.A. §§ 48-2-12**,** 48-5-7.7**.**

HISTORY: Original Rule entitled "QFLP Application" adopted as ER. 560-11-11-0.40-.04. F. and eff. May 22, 2009, the date of adoption.

Amended: Permanent Rule of same title adopted. F. June 26, 2009; eff. July 16, 2009.

Amended: F. Dec. 16, 2024; eff. Jan. 5, 2025.

560-11-11-.05 Period for Local Board of Tax Assessors to Approve or Deny QFLP Applications

(1) A Local Board of Tax Assessors shall have one hundred twenty (120) days from receipt of an Application for QFLP designation to approve or deny such Application.

(2) The Application must be filed with the Local Board of Tax Assessors no later than the last day for filing ad valorem tax appeals of the annual notice of assessment, except that in the case of property which is the subject of a tax appeal of the annual notice of assessment under O.C.G.A. § 48-5-311, an Application may be filed at any time while such appeal is pending.

(3) Upon approval or denial of an Application, the Local Board of Tax Assessors must notify the applicant in the manner provided for in O.C.G.A. § 48-5-306.

(4) If an Application is denied by the Local Board of Tax Assessors, any fees advanced by the applicant shall be returned to the applicant within thirty (30) days of the denial by the Local Board of Tax Assessors.

Cite as Ga. Comp. R. & Regs. R. 560-11-11-.05

AUTHORITY: O.C.G.A. §§ 48-2-12**,** 48-5-7.7**,** 48-5-306**.**

HISTORY: Original Rule entitled "Period for Local Board of Assessors to Approve or Deny QFLP Applications" adopted as ER. 560-11-11-0.40-.05. F. and eff. May 22, 2009, the date of adoption.

Amended: Permanent Rule of same title adopted. F. June 26, 2009; eff. July 16, 2009.

Amended: F. May 18, 2015; eff. June 7, 2015.

Amended: New title, "Period for Local Board of Tax Assessors to Approve or Deny QFLP Applications." F. Dec. 16, 2024; eff. Jan. 5, 2025.

560-11-11-.06 QFLP Covenant

(1) The QFLP Covenant shall:

(a) Be signed and recorded in any county where the tract is located and owner(s) have made application and received approval for QFLP designation.

1. The QFLP Covenant shall be signed by all owner(s) of record of the tract.

2. An individual may sign on behalf of the owner(s) of record by providing that such person has established that individual has sufficient legal authority satisfactory to the Local Board of Tax Assessors, to act on behalf of the owner(s).

(b) Have an effective date of January 1 of the year for which the Application was filed and the QFLP Covenant is signed by all required parties.

(2) An applicant receiving a favorable ruling for an appeal shall receive all benefits derived from the QFLP Covenant beginning in the year for which the Application was filed, irrespective of if the appeal is not resolved until subsequent year(s).

(3) The QFLP Covenant and benefits derived therefrom shall not extend to any portion of the tract for which the QFLP Covenant has not yet been signed and recorded in that county's real property index.

Cite as Ga. Comp. R. & Regs. R. 560-11-11-.06

AUTHORITY: O.C.G.A. § 48-5-7.7.

HISTORY: Original Rule entitled "QFLP Covenant" adopted as ER. 560-11-11-0.40-.06. F. and eff. May 22, 2009, the date of adoption.

Amended: Permanent Rule of same title adopted. F. June 26, 2009; eff. July 16, 2009.

Amended: F. May 18, 2015; eff. June 7, 2015.

Amended: F. Dec. 16, 2024; eff. Jan. 5, 2025.

560-11-11-.07 Notice of Breach

(1) Within forty-five (45) days from the day that a breach is reported to or discovered by the Local Board of Tax Assessors, the Notice of Breach shall be sent via certified mail to:

(a) The owner(s) of record of the real property in breach; and

(b) The Local Board of Tax Assessors in every other county where the QFLP is located.

(2) The Notice of Breach shall include the following:

(a) The location of the breach;

(b) The date the breach was reported or discovered;

(c) An explanation of the breach;

(d) Whether the appropriate remedy is either to remediate or cease and desist the breach;

(e) The date by which the remedy must be completed; and

(f) The penalty for not remedying the breach.

(3) The thirty (30) day period for the owner to remedy the breach shall not begin until the date of the postmark of the Notice of Breach.

Cite as Ga. Comp. R. & Regs. R. 560-11-11-.07

AUTHORITY: O.C.G.A. §§ 48-2-12**,** 48-5-7.7**.**

HISTORY: Original Rule entitled "Notice of Breach" adopted as ER. 560-11-11-0.40-.07. F. and eff. May 22, 2009, the date of adoption.

Amended: Permanent Rule of same title adopted. F. June 26, 2009; eff. July 16, 2009.

Amended: F. Dec. 16, 2024; eff. Jan. 5, 2025.

560-11-11-.08 Notification and Inspection Concerning QFLP in Breach of Covenant

(1) The owner(s) of record of the tract of real property in breach shall have thirty (30) days from the date of the postmark of the Notice of Breach by any owner of record to remedy the breach as specified in the Notice of Breach.

(2) Beginning on the first day after the thirty (30) day period for an owner(s) of record of the tract of real property to remedy the breach, the Local Board of Tax Assessors shall have forty-five (45) days in which to conduct a physical inspection of the real property to determine if the prescribed remedy has been completed.

(3) The Local Board of Tax Assessors shall have fifteen (15) days from the date of the physical inspection or the end of the inspection period, whichever is later, to send a written notice to the owner(s) of record of the tract, and any counties that encompass the tract subject to the breached QFLP Covenant, to inform the owner(s) whether the tract of real property is in compliance with the QFLP Covenant.

(a) Failure to inspect the tract of real property shall be deemed a determination that the tract is in compliance with the QFLP Covenant.

(4) If a QFLP Covenant covers multiple counties then the Local Board of Tax Assessors in the county where the breach has occurred shall send the same written notifications to the Local Board of Tax Assessors in all affected counties where the QFLP Covenant is in force and effect.

(a) Such written notifications shall be sent within the same time period, and in the same manner, as the written notification sent to the owner(s) of record notifying them of the breach and the determination of whether or not the tract is in compliance with the QFLP Covenant.

(5) Appeals concerning notice, inspection, or any other issue, must be made in the manner provided for in O.C.G.A. § 48-5-311.

(6) Notifications required by this Regulation that are sent by the Local Board of Tax Assessors to owner(s) of record of the tract subject to QFLP Covenant, and to any other counties where the tract is located and subject to the QFLP Covenant, shall be sent via certified mail by the United States Postal Service, commercial delivery service, commercial courier, or personal service to the last known address of the owner(s) of record.

Cite as Ga. Comp. R. & Regs. R. 560-11-11-.08

AUTHORITY: O.C.G.A. §§ 48-2-12**,** 48-5-7.7**,** 48-5-311**.**

HISTORY: Original Rule entitled "Notification and Inspection Concerning QFLP in Breach of Covenant" adopted as ER. 560-11-11-0.40-.08. F. and eff. May 22, 2009, the date of adoption.

Amended: Permanent Rule of same title adopted. F. June 26, 2009; eff. July 16, 2009.

Amended: F. Dec. 16, 2024; eff. Jan. 5, 2025.

560-11-11-.09 Release of Covenant

(1) When a tract of real property is no longer eligible as a QFLP due to a non-remedied breach, or at the expiration of the QFLP Covenant, the owner of such tract of real property shall file an application for release with the Local Board of Tax Assessors for release of the tract of real property from the QFLP Covenant:

(a) Within sixty (60) days of the last day the tract was eligible as QFLP; or

(b) Within sixty (60) days of the last day of the QFLP Covenant.

(2) The Local Board of Tax Assessors must within thirty (30) days from receipt of an application for release, determine if all taxes and penalties, if applicable, have been paid and satisfied on the tract of real property.

(a) Upon approval of the application for release of the tract real property from the QFLP Covenant, the Local Board of Tax Assessors shall have fifteen (15) days to

1. Provide written notification to the applicant that the release has been approved.

2. File the release with the office of the clerk of superior court in the county where the original QFLP Covenant was filed, and provide a copy to the applicant.

(b) If an application for release is denied, the Local Board of Tax Assessors shall send written notification to the applicant within fifteen (15) days of receipt of such application and it shall include the reason(s) for denial. Appeals resulting from denial of release shall be made in the manner provided for in O.C.G.A. § 48-5-311.

Cite as Ga. Comp. R. & Regs. R. 560-11-11-.09

AUTHORITY: O.C.G.A. §§ 48-2-12**,** 48-5-7.7**,** 48-5-311**.**

HISTORY: Original Rule entitled "Release of Covenant" adopted as ER. 560-11-11-0.40-.09. F. and eff. May 22, 2009, the date of adoption.

Amended: Permanent Rule of same title adopted. F. June 26, 2009; eff. July 16, 2009.

Amended: F. Dec. 16, 2024; eff. Jan. 5, 2025.

560-11-11-.10 Penalty for Breach

(1) If a breach should occur during the QFLP Covenant period then a penalty shall be imposed by the Local Board of Tax Assessors.

(a) The method for calculating the amount of the penalty owed is set forth in O.C.G.A § 48-5-7.7(m).

(b) Penalties and interest imposed pursuant to O.C.G.A. § 48-5-7.7, shall constitute a lien against that portion of the property which is subject of the original covenant, and shall be collected in the same manner as unpaid ad valorem taxes.

(2) If all or part of the tract subject of the original QFLP Covenant is transferred during the covenant period to another qualified owner, and following such transfer the acquiring owner and/or transferring owner cause a breach of the covenant, then:

(a) Any county affected by the breach must seek recovery of penalties and interest from the breaching party by any judicial means including, but not limited to, foreclosure of the breaching party's property.

(3) Activities listed in O.C.G.A. § 48-5-7.7(q) shall not constitute a breach of the QFLP Covenant.

(4) If a Contiguous tract is subject to a QFLP Covenant in multiple counties then a breach occurring in any of the counties where the Contiguous tract is located shall constitute a breach of the entire Contiguous tract. The owner of the Contiguous tract shall be assessed all penalties and interest resulting from the breach of the QFLP Covenant.

(5) If a breach occurs solely as the result of a Permissible Breach then no penalty shall be assessed but the QFLP Covenant will be terminated at the end of the digest year.

Cite as Ga. Comp. R. & Regs. R. 560-11-11-.10

AUTHORITY: O.C.G.A. § 48-5-7.7**.**

HISTORY: Original Rule entitled "Penalty for Breach" adopted as ER. 560-11-11-0.40-.10. F. and eff. May 22, 2009, the date of adoption.

Amended: Permanent Rule of same title adopted. F. June 26, 2009; eff. July 16, 2009.

Amended: F. Jun. 30, 2011; eff. July 20, 2011.

Amended: F. Dec. 16, 2024; eff. Jan. 5, 2025.

560-11-11-.13 Valuation of Additional Qualified Property which is Contiguous to the Property in the Original Covenant

(1) If a qualified owner has entered into an original QFLP Covenant and subsequently acquires additional qualified property Contiguous to the property in the original covenant, the qualified owner may elect to enter the subsequently acquired qualified property into the original covenant for the remainder of the fifteen (15) year period of the original covenant; provided, however, that such subsequently acquired qualified property shall be less than two hundred (200) acres.

(2) If the qualified owner makes such an election, then the subsequently acquired qualified property shall be valued in accordance with O.C.G.A. § 48-5-269.

(a) When calculating the subsequently acquired qualified property's initial value, this initial value shall not be subject to the three percent (3%) limitation provided for in O.C.G.A. § 48-5-271(b).

(b) The original property subject to the original QFLP Covenant and the subsequently acquired qualified property shall be treated as separate parcels on the county tax digest until the expiration of the original QFLP Covenant. Upon the expiration of the QFLP Covenant, the properties can be merged into a single parcel upon renewal.

Cite as Ga. Comp. R. & Regs. R. 560-11-11-.13

AUTHORITY: O.C.G.A. §§ 48-5-7.7**,** 48-5-269**,** 48-5-271**.**

HISTORY: Original Rule entitled "Valuation of Additional Qualified Property which is Contiguous to the Property in the Original Covenant" adopted. F. Jun. 30, 2011; eff. July 20, 2011.

Amended: F. Dec. 16, 2024; eff. Jan. 5, 2025.