

**RULES
OF
DEPARTMENT OF HUMAN RESOURCES
OFFICE OF REGULATORY SERVICES**

CHAPTER 290-9-11

RULES AND REGULATIONS FOR ADULT DAY CENTERS

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290-9-11-.01 Authority.

These rules are adopted and published pursuant to the Official Code of Georgia Annotated (O.C.G.A.) §§ 49-6-80, 49-6-81, 49-6-82, 49-6-83, 49-6-84, 49-6-85 and 49-6-86 *et. seq.*, the “Adult Day Center for Aging Adults Licensure Act.”

Authority O.C.G.A. § 49-6-80. **History:** Code 1981, § 49-6-80, enacted by Ga. L. 2003, p. 298, § 1; O.C.G.A. § 49-6-81. **History:** Code 1981, § 49-6-81, enacted by Ga. L. 2003, p. 298, § 1; O.C.G.A. § 49-6-82. **History:** Code 1981, § 49-6-82, enacted by Ga. L. 2003, p. 298, § 1; O.C.G.A. § 49-6-83. **History:** Code 1981, § 49-6-83, enacted by Ga. L. 2003, p. 298, § 1; O.C.G.A. § 49-6-84. **History:** Code 1981, § 49-6-84, enacted by Ga. L. 2003, p. 298, § 1; O.C.G.A. § 49-6-85. **History:** Code 1981, § 49-6-85, enacted by Ga. L. 2003, p. 298, § 1; O.C.G.A. § 49-6-86. **History:** Code 1981, § 49-6-86, enacted by Ga. L. 2007, p. 348, § 2/HB 505.

290-9-11-.02 Title and Purposes.

These rules shall be known as the Rules and Regulations for Adult Day Centers. The purposes of these rules are to provide for licensing and inspection of adult day centers which provide adult day care services and/or adult day health services to three or more adults, and to establish the minimum standards for the operation of adult day centers. It is the intent of these rules to promote, safeguard and protect the well-being of adults participating in adult day care who need such services.

Authority O.C.G.A. § 49-6-80. **History:** Code 1981, § 49-6-80, enacted by Ga. L. 2003, p. 298, § 1.

290-9-11-.03 Exemptions.

These rules and regulations shall not apply to the following:

- (1) Individuals or organizations providing adult day services without compensation as a condition of the participant’s receiving such services;
- (2) Individuals or organizations that provide services for compensation to only one or two participants;
- (3) Programs which provide day habilitation and treatment services exclusively for developmentally disabled persons; and
- (4) Respite care services programs, provided the program meets all parts of the definition for a respite care services program as outlined in section 290-9-11-.04(ff).

Authority O.C.G.A. § 49-6-82. **History:** Code 1981, § 49-6-82, enacted by Ga. L. 2003, p. 298, § 1.

290-9-11-.04 Definitions.

- (1) In these rules, unless the context otherwise requires, the words and phrases set forth herein shall mean the following:

- (a) “Abuse” means any intentional or grossly negligent act or series of acts or intentional or grossly negligent omission to act which causes injury to a participant, including but not limited to assault or battery, failure to provide treatment or care, or sexual harassment.
- (b) “Activities of daily living” means bathing, shaving, brushing teeth, combing hair, toileting, dressing, eating, grooming, taking medications, and transfers and/or ambulation.
- (c) “Adult” means a person 18 years or older or an emancipated minor.
- (d) “Adult day care (ADC)” means the provision of a comprehensive plan of services that meets the needs of aging adults as defined in paragraph (g) of these definitions under a social model, as defined in paragraph (jj) of these definitions. This term shall not include programs which provide day habilitation and treatment services exclusively for individuals with developmental disabilities.
- (e) “Adult day center” means a facility serving aging adults that provides adult day care or adult day health services, as defined in paragraphs (d) and (f) of these definitions, for compensation to three or more persons. Adult day centers may operate in more than one location if classified and approved by the Department as a mobile adult day center. This term shall not include a respite care services program.
- (f) “Adult day health services (ADHS)” means the provision of a comprehensive plan of services that meets the needs of aging adults under a medical model as defined in paragraph (u) of these definitions. This term shall not include programs which provide day habilitation and treatment services exclusively for individuals with developmental disabilities.
- (g) “Aging adults” means persons 60 years of age or older or mature adults below the age of 60 whose needs and interests are substantially similar to persons 60 years of age or older who have physical or mental limitations that restrict their abilities to perform the normal activities of daily living and impede independent living.
- (h) “Capacity” means the number of participants for which a center has been licensed to provide care and services at any given time.
- (i) “Days” means calendar days, not workdays, unless otherwise noted in the text.
- (j) “Department” means the Georgia Department of Human Resources (DHR).
- (k) “Dietitian” means a registered dietitian, with current registration by the Commission on Dietetic Registration of the American Dietetic Association; and a licensed dietitian, with current licensure by the Georgia Board of Examiners of Licensed Dietitians.
- (l) “Direct care staff” means an employee of a center who provides direct services to participants, including the Director, a licensed nurse, the activities director, and/or aides.

(m) “Director” means the person designated by the governing body as responsible for the overall operation of a center.

(n) “Disaster preparedness plan” means a written document which identifies, potential hazards or events, that should they occur, would cause an emergency situation at the center; and proposes, for each identified emergency situation, a course of action so as to minimize the threat to health and safety of the participants.

(o) “Exploitation” means an unjust or improper use of another person or his property for one’s own profit or advantage.

(p) “Facility” means an adult day center, unless otherwise specified.

(q) “Governing body” means the Board of Trustees, the partnership, the corporation, the association, or the person or group of persons who maintain and control the center and who are legally responsible for the operation of the center.

(r) “Individual plan of care” means a document describing the participant’s needs, services to be provided by the adult day center and, for adult day health services, identification of individuals who will deliver the required services, the expected outcomes and frequency of re-evaluation of the plan.

(s) “Licensed practical nurse (LPN)” means a person who provides care relating to the maintenance of health and prevention of illness under the supervision of a physician, dentist, podiatrist or registered nurse (RN).

(t) “Long-term care facility” means any skilled nursing home, intermediate care home or personal care home now or hereafter subject to regulation and licensure by the Department.

(u) “Medical model” means a comprehensive program that provides adults with the basic social, rehabilitative, health and personal care services needed to sustain the essential activities of daily living and to restore or maintain optimal capacity for self-care. Such program of care shall be based on individual plans of care and shall be provided for less than 24 hours per day.

(v) “Mobile adult day center” means a program of services offered by an adult day center which utilizes a designated staff that travels from one central location to off-site locations to provide adult day services as described in these rules. The mobile adult day center transports the necessary staff and/or volunteers, participant records, supplies and program materials to each off-site location for the provision of services. The services offered by a mobile adult day center may either be adult day care services or adult day health services, or both, and are offered less than four days per week at any one location.

(w) “Neglect” means a failure to act or omission to act that caused or may cause physical or emotional injury or death; or failure to provide the goods or services necessary to avoid physical harm, mental illness or mental anguish.

(x) "Nurse" means a registered nurse (RN) or licensed practical nurse (LPN) licensed in the state of Georgia.

(y) "Nursing services" means services provided by licensed nursing personnel and may include therapy services. Nursing services may also include observation, promotion and maintenance of health, dressing changes, prevention of illness and disability, management of health care during acute and chronic phases of illness, guidance and counseling of individuals and participants' representatives, administration of medications and referral to physicians, other health care providers, and community resources when appropriate.

(z) "Participant" means an adult receiving services in the adult day center.

(aa) "Physician's orders" means an order that is signed and dated by a medical doctor (MD), doctor of osteopathy (DO) or other person(s) authorized by law who is licensed to practice medicine in the state of Georgia.

(bb) "Primary caregiver" means the one identified relative or other person in a relationship of responsibility, such as an agent under a valid Georgia Advance Directive for Health Care, who has assumed the primary responsibility for the provision of care needed to maintain the physical or mental health of an aging adult, who lives in the same residence with such individual, and who does not receive financial compensation for the care provided.

(cc) "Registered nurse (RN)" means a person currently licensed by the Board of Nurse Examiners for the State of Georgia to practice professional nursing.

(dd) "Representative" means anyone that the participant identifies as having authority to make decisions on his or her behalf.

(ee) "Resident" means any person receiving treatment or care in a long-term care facility.

(ff) "Respite care services program" means a program for aging adults who can function in a group setting and who can feed and toilet themselves with or without the assistance of a personal aide accompanying them and which:

1. Is operated by a nonprofit organization;
2. Provides no more than 25 hours of services per week;
3. Is managed by a director who has completed an adult day care services training and orientation program approved by the Department;
4. Is staffed primarily by volunteers; and
5. Has as its sole purpose to provide primary caregivers of aging adults with relief from normal caregiving duties and responsibilities.

(gg) “Restraint” means any manual or physical device, material, or equipment attached or adjacent to the participant’s body that the individual cannot remove easily which restricts freedom or normal access to one’s body.

(hh) “Serious injury” means an injury requiring emergency medical intervention or treatment by medical personnel, either at a center or at an emergency room or medical office.

(ii) “Social activities” means therapeutic, educational, cultural enrichment, recreational, and social activities on site or in the community in a planned program to meet the social needs and interests of the individual.

(jj) “Social model” means a program that addresses primarily the basic social and recreational activities needed to be provided to aging adults, but also provides, as required, limited personal care assistance, supervision, or assistance essential for sustaining the activities of daily living. Such programs of care shall be based on individual plans of care and shall be provided for less than 24 hours per day.

(kk) “Staff” means, as appropriate to their roles and responsibilities, all people who provide supervision, care, treatment, and services in the center including permanent, temporary, and part-time employees, as well as contracted individuals and health profession students. The definition of staff does not include licensed independent practitioners who are not paid staff or who are not contract employees or volunteers.

(ll) “Standard Precautions” means a system of precautions or set of guidelines designed to reduce exposure to and transmission of microorganisms from both recognized and unrecognized sources of potential infections.

(mm) “Volunteer” means an individual who performs or offers to perform a service for the center out of his own free will and without payment.

Authority O.C.G.A. § 49-6-82 et seq. **History:** Code 1981, § 49-6-82, enacted by Ga. L. 2003, p. 298, § 1.

290-9-11-.05 Application for License.

(1) Unless exempted in section 290-9-11-.03, no person, partnership, entity, corporation, or association, whether operated for profit or not for profit, shall operate an adult day center, adult day health center, or mobile adult day center without first obtaining a valid license from the Department.

(2) A license issued under these rules shall not be assignable or transferable.

(3) Unless exempted in section 290-9-11-.03, no entity or person shall use the terms “adult day center,” “adult day care,” “adult day health care,” “adult day facility”, or “mobile adult day center” to imply or indicate that it provides services to participants unless the entity or person holds a valid license issued by the Department.

(4) A separate application and license is required for each adult day center located at different premises.

(5) The governing body of each adult day center, adult day health center or mobile adult day center shall submit a completed application for a license on forms provided by the Department. The application shall be accompanied by the following:

(a) A non-refundable application fee and a license fee as approved by the Board of Human Resources based upon the type of services provided;

(b) Proof of the legal right to occupy the property where the adult day center is housed;

1. Proof of ownership or right of occupancy shall include a warranty deed, lease agreement or bill of sale; or

2. Written permission from the owner of the premises authorizing the adult day center, adult day health center or mobile adult day center to operate exclusively within a designated space is permissible where the adult day center, adult day health center or mobile adult day center provides services in a donated space or does not own or lease the premises where services are provided;

(c) A floor sketch of the facility showing windows, doors, room measurements, and the location of the adult day center facilities and any other services provided on the premises;

(d) A completed affidavit of personal identification;

(e) In the case of corporations, partnerships, and other entities authorized by law, the applicant shall provide a copy of its certificate of incorporation or other acceptable proof of its legal existence and authority to transact business within the state;

(f) Documentation from the local authority having jurisdiction over fire safety or by the State Fire Marshal that the center is in compliance with all applicable fire safety regulations. Such documentation shall be dated within the six (6) months preceding the date of the application;

(g) Documentation of approval for water source and sewage disposal system;

(h) Documentation from local zoning authorities that the center is in compliance with local zoning codes;

(i) A list of the locations of any additional adult day centers operated by the governing body;

(j) If vehicle transportation services are provided by the center, the center shall submit the following:

1. Proof of insurance coverage for property damage, uninsured motorists and bodily injury for the vehicle which transports participants; and

2. Proof of current vehicle registration.

(k) For a mobile adult day center, a list of all locations where services are provided. If the mobile adult day center provider also operates a standard freestanding adult day center, the name and address of that center shall also be included on the application.

(6) All adult day centers, adult day health centers, and mobile adult day centers which are required to be licensed and operating as of the effective date of these rules shall make application to the Department for a license within 45 days of the effective date of these rules. Such centers may continue to operate without disruption until such time as an inspection is completed by the Department and there has been a determination of compliance or noncompliance with these rules and regulations.

(7) A license shall be issued to the governing body of the adult day center disclosed in the application for licensure and proof of ownership documents.

(8) Licenses shall be renewed by the Department annually from the date of initial issuance upon submission of a renewal application and a license renewal fee as approved by the Board of Human Resources. The license shall remain in effect upon submission of the annual license fee and/or renewal application and so long as the adult day center continues to be in compliance with these rules.

(9) Knowingly making any verbal or written false statement of material fact in connection with the application for a license or supplying false or misleading information shall constitute grounds for denial or revocation of a license.

(10) **Fees.** The Department shall require the payment of application fees, license fees, license renewal fees or other similar fees relating to the licensure of adult day centers, adult day health centers, mobile adult day centers in amounts approved by the Board of Human Resources.

(a) The computation of fees shall include input from consumers, providers and advocates during the rulemaking process.

(b) Fees shall support the licensing, inspecting and monitoring of adult day centers.

(c) Fees shall in no case be set to exceed the cost of the regulatory services associated with the licensing, inspecting and monitoring of programs.

(d) Application fees are nonrefundable.

(e) License fees may be refunded for good cause shown as determined by the Department. Refund of an initial license fee will be considered only if the application is withdrawn prior to initial inspection and the center is not actively providing services.

(11) The following are the licensing fees approved by the Department.

(a) Adult day centers.

1. Application fee: \$100;
2. The initial license fee: \$150, or \$300 if following a finding of operating without a license.
3. Annual renewal fee: \$150, or \$225 if past due.

(b) Adult day health centers.

1. Application fee: \$100.
2. Initial license fee: \$300, or \$600 if following a finding of operating without a license.
3. Annual renewal fee: \$300, or \$450 if past due.

(c) Mobile adult day centers.

1. Application fee: \$100.
2. Initial license fee: \$150 plus \$50 per off-site location, or \$300 plus \$50 per off-site location if following a finding of operating a license.
3. Annual renewal fee: \$150 plus \$50 per off-site location, or \$225 plus \$50 per off-site location if past due.

(12) All application fees and license fees shall be submitted in the form of cashier's check or money order and made payable to the Department of Human Resources.

(13) Mobile adult day centers shall submit one non-refundable application fee for the mobile adult day services.

(a) Each license issued to a mobile adult day center shall enable the licensee to provide services at no more than five (5) off-site locations.

(b) Each off-site location where the mobile adult day center provides services must be listed on the mobile adult day center's application for a license.

(c) If an applicant proposes to operate a regular adult day center as well as a mobile adult day center, there shall be a separate license fee for each type of center.

(14) Following evidence of substantial compliance with these rules and regulations and any provisions of law applicable to the construction and operation of the adult day center, the Department may issue a license.

(15) Each off-site location used by mobile adult day center providers shall be issued a separate, restricted license, restricting utilization of that site as an adult day center to the licensed mobile adult day center provider.

(a) Providers applying for operation of a mobile adult day center shall demonstrate compliance with all rules and regulations applicable to the types of services provided.

(b) All off-site facilities used by mobile adult day center providers shall be in compliance with all applicable regulations for physical plant and safety standards as indicated in section 290-9-11-.10 and the fire safety standards set forth in 290-9-11-.09.

Authority O.C.G.A. § 49-6-83. **History:** Code 1981, § 49-6-83, enacted by Ga. L. 2003, p. 298, § 1. O.C.G.A. § 49-6-86. **History:** Code 1981, § 49-6-86, enacted by Ga. L. 2007, p. 348, § 2/HB 505.

290-9-11-.06 License Requirements.

(1) The governing body of each adult day center or mobile adult day center shall obtain a valid license from the Department prior to beginning operation. To be eligible for a license, the center must be in compliance with the applicable rules and regulations.

(2) The license shall state the maximum number of participants per day who may receive services at the center. No adult day center shall provide services to more participants at any time during the day than its licensed capacity. The capacity shall be determined by the floor space available for participant activity, as described in 290-9-11-.10(f).

(3) The license shall be displayed in a prominent place on the premises where the adult day center programs are operated.

(4) Licenses are not transferable from one governing body to another, from one adult day center location to another or from one mobile adult day center to another.

(5) A license shall no longer be valid and shall be returned to the Department when the adult day center ceases to operate, changes locations, the ownership changes, the governing body is significantly changed, or the license is suspended or revoked.

(6) Each change of ownership, change of lease or change of location shall be reported to the Department at least 30 days prior to such change along with an application from the proposed new owners or lessees for a new license.

(7) Changes in the adult day center that require a new application and the issuance of a new license include a change in name, an addition of another location, or a change in the maximum number of participants per day or a change in the scope of services provided. A written new application shall be filed at least 30 days prior to a change in information previously reported in the application.

Authority O.C.G.A. § 49-6-83. **History:** Code 1981, § 49-6-83, enacted by Ga. L. 2003, p. 298, § 1. O.C.G.A. § 49-6-84 **History:** Code 1981, § 49-6-84, enacted by Ga. L. 2003, p. 298, § 1.

290-9-11-.07 Governing Body.

- (1) Each adult day center or mobile adult day center shall have a clearly identified governing body which shall be empowered and responsible for determining all policies and procedures and ensuring compliance with these rules and regulations.
- (2) The governing body shall be responsible for compliance with the requirements of Article 7 of Chapter 6 of Title 49 of the Official Code of Georgia Annotated, and with applicable administrative rules and regulations of the Department, including but not limited to all applicable statutes, rules and regulations regarding disclosure of ownership.
- (3) The governing body shall certify in its application the name of the Director who has been designated as responsible for the overall management of the center and for carrying out the rules and policies adopted by the governing body.
- (4) The governing body shall notify the Department in writing immediately when there is a change in the Director.
- (5) Each adult day center or mobile adult day center owned or operated by the same governing body shall have a designated Director who is available on-site during operating hours.

Authority O.C.G.A. § 49-6-81 **History:** Code 1981, § 49-6-81, enacted by Ga. L. 2003, p. 298, § 1. O.C.G.A. § 49-6-84. **History:** Code 1981, § 49-6-84, enacted by Ga. L. 2003, p. 298, § 1.

290-9-11-.08 Administration.

- (1) Prior to being granted a license, each adult day center, adult day health center or mobile adult day center shall develop written policies and procedures outlining the responsibilities of center staff, management and volunteers. The policies and procedures shall at a minimum include the following:
 - (a) A description of the types of services provided by the center including whether the center provides adult day care or adult day health services or both, characteristics of the participants that the center expects to serve and an Alzheimer's Disclosure Form as applicable, in compliance with O.C.G.A. § 31-8-182, *et. seq.*
 - (b) A description of the number and qualifications of staff and/or volunteers who will provide the services; and whether the services will be provided by center staff and/or volunteers or a contract provider;
 - (c) A description of the center's days and hours of operation;
 - (d) The center's policy for fees for service, including the daily charge; any additional fees for specific services, goods, or incidental supplies that are not included in the daily charge (e.g. personal hygiene products, transportation, bathing assistance, personal care assistance, etc.); and

the method for notifying participants or their representatives of any changes or adjustments in fees;

(e) The center's policy for refunds;

(f) The center's policy and procedures for accepting voluntary contributions as compensation from or on behalf of participants;

(g) The procedure for documenting any serious or unusual incidents occurring at the center which would affect the health, safety or welfare of participants; including procedures for obtaining needed care and procedures for informing participants' representatives and/or legal guardian(s), of any such incidents or major changes in general functioning or medical condition of the participant;

(h) An explanation of how emergency medical situations will be handled at the center, including how participants and representatives are informed of the procedures for dealing with emergency medical situations;

(i) The procedure for implementing standard precautions;

(j) A policy and procedure to assure that no staff member, volunteer, visitor, contractor or any other person may be on the premises of the center during the hours of operation if the person exhibits: symptoms of illness, a communicable disease transmitted by normal contact, or behavior which gives reasonable concern for the safety of the participants and others;

(k) A policy for the proper storage, handling and documentation regarding medications where assistance with self-administration is offered and/or medications are administered by a licensed nurse;

(l) A non-smoking policy or a statement that the center has designated an appropriate outside area for smoking;

(m) A description of the criteria for voluntary and involuntary discharge of a participant from the center, and the time frame for notifying the participant and/or participant's representative prior to an involuntary discharge;

(n) A policy for addressing and resolving complaints made by participants, the participant's representative, family or other interested person(s) within a reasonable time not to exceed seven (7) business days, including providing information to such person(s) about appropriate local, county and/or state agency contacts;

(2) Each center shall establish core hours and days of operation during which services are available. Adult day centers shall operate no more than 14 continuous hours per day.

(3) Each center shall maintain an organizational chart, illustrating the lines of authority and communication within the center.

(4) Each center shall ensure that participants and their representatives, if any, shall receive at least 30 days written notice prior to any substantive changes in the participant agreement or fees for service.

Authority O.C.G.A. § 49-6-81 **History:** Code 1981, § 49-6-81, enacted by Ga. L. 2003, p. 298, § 1. O.C.G.A. § 49-6-84. **History:** Code 1981, § 49-6-84, enacted by Ga. L. 2003, p. 298, § 1; O.C.G.A. § 31-8-182 **History:** Code 1981, § 31-8-182, enacted by Ga. L. 1995, p. 841, § 1.

290-9-11-.09 Disaster Preparedness, Fire Safety and Emergencies.

(1) In a format provided by the Department, each center shall accurately complete and submit for approval a disaster preparedness plan that contains a set of procedures for responding to internal and external disasters or emergency situations.

(a) The format for the disaster preparedness plan may be obtained directly from the Department.

(b) Updates to the disaster preparedness plan shall be submitted to the Department in an acceptable format.

(2) The disaster preparedness plan shall identify the staff position responsible for implementing the plan, obtaining necessary emergency medical attention or intervention for participants, and coordinating with designated agencies including the Red Cross and the county emergency management agency.

(3) A standardized format shall be used throughout the plan that clearly describes how the emergency procedures should be carried out for each potential disaster. The emergency procedures should answer the questions of "who, what, when, where, and how," and allow the center to be ready to act effectively and efficiently in an emergency situation.

(4) The plan shall contain a section that outlines the frequency of rehearsal and the procedures to be followed during rehearsal. Each aspect of the plan must be rehearsed on an annual basis.

(5) Each center shall forward a copy of the plan to the local emergency management agency.

(6) Each center shall submit one copy of the complete plan to the Department for review and approval.

(7) Each center shall review and update its disaster preparedness plan on an annual basis.

(8) Each center shall maintain the following records and make them available to authorized Department employees upon request:

(a) A copy of the disaster preparedness plan and any subsequent changes thereto, which shall also be available for immediate access by center staff;

- (b) Records of rehearsals of the disaster preparedness plan to include the names of all participants, staff and volunteers participating in the rehearsals;
- (c) Records of incidences which required implementation of the disaster preparedness plan, including a written incident report and a written critique of the performance under the plan.
- (9) Each center shall notify the Department within one business day when an emergency situation occurs which dictates implementation of the disaster preparedness plan. Such notification to the Department may initially be verbal and shall be followed-up in writing within three business days.
- (10) **Fire Safety.** Adult day centers, adult day health centers and mobile adult day centers shall ensure that facilities where services are provided meet all applicable standards for fire and safety requirements. Fire safety must be observed at all times.
- (a) The building must be kept in good repair; electrical, heating and cooling systems must be maintained in a safe manner. Electrical appliances, devices and lamps must be used in a manner that prevents overloaded circuits. Any extension cords in excess of six feet must be shielded or protected and shall not be used in lieu of permanent wiring.
- (b) Each center must develop and conspicuously post throughout the center an emergency evacuation plan;
- (c) Fire drills shall be conducted at least quarterly and all staff and participants shall participate in the drills. Drills shall be held at expected and unexpected times and under varying conditions to simulate the unusual conditions that can occur in an actual emergency. Documentation of the fire drills shall be maintained by the center and shall include the date and time of such drills, the staff and participants included in the drill, and the actual evacuation time.
- (d) Storage items must be neatly arranged and placed to minimize fire hazard. Gasoline, volatile materials, paint, and similar products must not be stored in the building housing participants unless approved in writing by the local fire marshal.
- (e) Outside areas designated for smoking shall have ashtrays of noncombustible material and safe design.
- (f) Portable fire extinguishers shall be maintained in operable condition at all times, inspected once a year by a qualified technician, and shall be labeled indicating the condition and date of last inspection.
- (g) Each center shall be equipped with a sufficient number of smoke detectors, operated by house current or hardwired into the center's electrical service. Center staff shall consult local fire safety authorities to determine the appropriate number and placement of the smoke detectors.
- (h) The use of unvented heaters, open flame heaters or portable space heaters is prohibited.

(i) The Department may require an appropriate fire safety inspection of any center at any time, including, but not limited to, when the physical plant undergoes a substantial change, such as repairs, renovations, or additions, or the Department has reason to believe that fire safety violations exist and that participants may be at risk.

(11) **Emergency Procedures.** Each center shall establish written emergency policies and procedures. Emergency procedures shall include at least the following:

(a) A written plan and/or agreement for emergency care;

(b) A written plan and/or agreement for emergency transportation;

(c) An easily located file for each participant containing at least the following:

1. Name and telephone number of the participant's physician;

2. Hospital preference;

3. Insurance information;

4. Medications and allergies;

5. Current diagnoses and history;

6. Name and telephone number of emergency contact;

7. Copy of any Georgia Advance Directive for Health Care; and

8. Photograph (for participant identification).

(d) A written plan for notification of local law enforcement when a participant has been missing for more than thirty (30) minutes.

(12) The Department may suspend any requirements of these rules and the enforcement of any rules where the governor of the state of Georgia has declared a public health emergency.

Authority O.C.G.A. § 49-6-81 **History:** Code 1981, § 49-6-81, enacted by Ga. L. 2003, p. 298, § 1. O.C.G.A. § 49-6-84. **History:** Code 1981, § 49-6-84, enacted by Ga. L. 2003, p. 298, § 1.

290-9-11-.10 Physical Plant Health and Safety Standards.

(1) **General.** The adult day center shall be constructed, arranged, and maintained so as to provide adequately for the health, safety, access, and well-being of the participants.

(a) Each center shall have a standard telephone, not a pay telephone, on the premises which is immediately accessible during the center's hours of operation. A list of emergency telephone

numbers for fire, ambulance, police, poison control and 911 shall be posted at each telephone.

(b) Each center shall provide adequate, safe and sanitary facilities appropriate for the services provided by the center and for the needs of the participants. All centers shall be accessible to and usable by physically disabled individuals and shall meet all applicable regulations for access for the handicapped.

(c) The adult day center shall be in compliance with all building codes and other applicable codes.

(d) Each center shall provide adequate lighting for participant activities and safety.

(e) Each center shall be adequately ventilated at all times by either mechanical or natural means to provide fresh air and the control of unpleasant odors.

(f) There shall be adequate floor space in the center to safely and comfortably accommodate the number of participants for all activities and services provided by the center. Centers shall provide at least 35 feet of usable floor space for each participant, exclusive of passageways, bathrooms, lockers, storage rooms, staff rooms, and other areas not used for participant activities.

(2) **Facilities.** Center facilities shall consist of, but not be limited to, the following:

(a) Bathrooms;

(b) Dining areas;

(c) Kitchen areas;

(d) Rest area(s) as needed by the participants;

(e) Activity areas for recreation and leisure time;

(f) A private area for the provision of first aid, assistance with activities of daily living, and counseling services when provided, or as necessary for other services required by participants; and

(g) An adult day center may be co-located at a licensed long-term care facility provided that both the center and the long-term care facility are meeting the needs of the adult day participants and the long-term care facility residents, maintaining their required staffing ratios, and respecting the rights of the residents of the long-term care facility to privacy and the quiet enjoyment of their residence.

(3) **Furnishings.** Each center shall provide sufficient furniture for use by participants, which provide comfort and safety, and are appropriate for an adult population with physical limitations, visual and mobility limitations and cognitive impairments. Furnishings shall be maintained in good condition, intact, and functional.

- (a) Each center shall provide clean, comfortable seating with support meeting the needs for each participant.
 - (b) Each center shall provide table space sufficient to seat all participants for dining at one time.
 - (c) Dining areas and furnishings shall be arranged to accommodate participants using wheelchairs.
 - (d) Rest areas shall be furnished with a bed and mattress, recliner, sofa, or chair with back and arm support.
 - (e) Furnishings and décor shall reflect non-institutional settings.
 - (f) Adult day centers co-located within a licensed long-term care facility may not use residents rooms or furnishings for adult day care participants.
- (4) **Bathrooms.** There shall be adequate bathroom facilities to meet the needs of participants.
- (a) At a minimum, there shall be not less than one toilet for every 15 participants or fraction thereof;
 - (b) Bathrooms and fixtures shall be accessible to participants with disabilities, function properly, and be maintained in a sanitary and odor free condition;
 - (c) Multiple toilets in the same room shall have individual stalls with doors which can be closed;
 - (d) Each bathroom shall be equipped with waste receptacles which are emptied and cleaned regularly; and
 - (e) Doors to all bathrooms must be equipped with closure devices which can be opened from the outside, in case a participant experiences difficulty and needs staff assistance.
- (5) **Bathing Facilities.** A minimum of one bathing unit shall be provided in each adult day health center and in adult day care centers that provide assistance with bathing.
- (a) The bathing unit, when in use, shall not interfere with the accessibility to bathroom facilities by other participants;
 - (b) Each tub or shower shall be in an individual room or enclosure that provides space for the private use of the bathing fixture, for bathing, drying and dressing, for the participant and staff; and
 - (c) Tubs and/or showers for participant use must have non-slip bottoms or floor surfaces, either installed or applied to the surface.

(6) **Environment/Sanitation.** The building shall be clean and in good repair, free from litter, extraneous materials, unsightly or injurious accumulations of items and free from vectors and vermin.

(a) Waste, trash and garbage shall be removed from the premises at regular intervals. Excessive accumulations are not permitted;

(b) Floors must be maintained in good condition and present a clean appearance;

(c) Walls and ceilings must be structurally sound and maintained, cleaned, repaired and/or painted when needed; and

(d) All outside refuse containers shall have tight fitting lids which are left in closed position. Containers shall be maintained in a clean and serviceable condition.

(7) **Temperature Conditions.** Each center shall provide an adequate central heating and cooling system or its equivalent at ranges that are consistent with the individual health needs and comfort of participants. The temperature range shall be maintained between 70 degrees F. and 85 degrees F. in all rooms used by the participants.

(8) **Outdoor Areas.** Adult day centers that provide outdoor activities shall have a safe, secure, and suitable outdoor recreation or relaxation area that includes a shaded area for participants that is designed to meet the needs of participants.

(a) The outdoor area shall be connected to, be a part of, be controlled by, and be directly accessible from the center; and

(b) The outdoor area shall be suitably furnished with seating appropriate to the needs of the participants.

Authority O.C.G.A. § 49-6-81 **History:** Code 1981, § 49-6-81, enacted by Ga. L. 2003, p. 298, § 1. O.C.G.A. § 49-6-84. **History:** Code 1981, § 49-6-84, enacted by Ga. L. 2003, p. 298, § 1.

290-9-11-.11 Supplies.

(1) Each center shall ensure that soap is available at the sinks, toilet tissue at each commode, and single use towels or mechanical hand dryers in each bathroom.

(2) Each center shall stock and maintain in a single location first aid supplies to treat minor burns, cuts, abrasions, and accidental poisonings. Staff shall assure that supplies with shelf dates are replaced in a timely manner to avoid expiration. The first aid supplies shall include the following:

(a) Thermometer;

(b) Band aids, tape and gauze;

- (c) Antiseptic and antibiotic solutions; and
- (d) Syrup of ipecac (to be used only if so instructed by the Georgia Poison Control Center).

(3) **Adult Day Health Centers.** In addition to the above, adult day health care centers shall maintain the equipment and supplies listed below in a safe, clean and usable condition:

- (a) Scales;
- (b) Sterile dressing materials;
- (c) Blood pressure equipment;
- (d) Stethoscope;
- (e) Tub-shower chair/bench;
- (f) Wheelchair; and
- (g) Anti-bacterial ointment or spray.

Authority O.C.G.A. § 49-6-81 **History:** Code 1981, § 49-6-81, enacted by Ga. L. 2003, p. 298, § 1. O.C.G.A. § 49-6-84. **History:** Code 1981, § 49-6-84, enacted by Ga. L. 2003, p. 298, § 1.

290-9-11-.12 Services.

(1) The scope of services provided or arranged by the center shall be based on the written description of the program.

(a) Adult day centers may provide a social model adult day care program or a medical model adult day health care program of services, which are differentiated by the intensity and scope of service delivery;

(b) Each model or program shall comply with all the general licensing standards as well as the program specific requirements outlined herein; and

(c) A provider licensed for adult day health services may also provide adult day care or mobile adult day care services.

(2) **Core Services.** Core services provided by all centers shall include at a minimum the following:

(a) Supervision commensurate with the needs of the participants;

(b) Social and leisure activity programming which takes into consideration individual differences in health and functioning, lifestyle, ethnicity, religious affiliation, values, experiences, needs, interests, abilities and skills;

(c) Individual and group activities that encourage creativity, social interaction, and exercise or physical activity appropriate to each participant's functional status and abilities; and

(d) Nutrition, for all centers open for more than four (4) hours per day.

(3) **Optional Services.** Optional or additional services that may be arranged for or provided by the adult day center include the following:

(a) Transportation;

(b) Social services;

(c) Personal care services; and

(d) Assistance with medications.

(4) **Adult Day Health Services.** In addition to the above, centers that provide adult day health services shall provide an ongoing program of therapeutic activities designed to meet, in accordance with the assessment or reassessment, the physical, mental and psychosocial well-being of each participant. The activity program shall be multifaceted and reflect each individual's needs, abilities, and interests and include the following:

(a) Nursing services;

(b) Health monitoring;

(c) Medication administration;

(d) Physical therapy;

(e) Occupational therapy; and

(f) Speech therapy.

(5) **Individual Plan of Care.** The services provided by the center shall be in accordance with the participant's individual plan of care.

(a) The individual plan of care shall be completed by the Director or his/her designee, implemented within three business days of admission, and shall include the following:

1. Signature of the participant or their representative as evidence of their involvement;

2. A review of the participant's functional abilities and disabilities, personal habits, likes and dislikes, medical condition and any other information helpful to developing the plan;

3. A statement of the activities and services the center will provide in order to meet the participant's needs and preferences. In addition to the above, for adult day health care centers, the individual plan of care shall include:

- i. The frequency and intensity of services to be provided;
- ii. Identification of individuals who will provide any therapeutic services;
- iii. The expected outcomes and the frequency of re-evaluation of the plan; and
- iv. The participant's usual travel arrangements to and from the site, the usual time for arriving and leaving, and any plan for using transportation services.

4. The expected outcomes and the frequency of reevaluation of the plan; and

5. The participant's usual travel arrangements to and from the site, the usual time for arriving and leaving, and any plan for using transportation services.

(b) The plan shall be reviewed and updated at least bi-annually or more often as warranted by changes in the participant's functioning, health condition, preferences or services. Changes shall be documented in the participant's record; and

(c) For adult day health services, the center shall document at least quarterly how each participant is responding to the individual plan of care.

(6) The center shall have a written agreement with any agency, program, or other service provider that provides essential services not provided directly by and otherwise the responsibility of the center. This written agreement shall include the nature and extent of the services provided and shall be updated annually. The center shall ensure that such services comply with the requirements of these rules.

(7) If the center uses animals as part of the program of activities, any such animals shall be tolerant of people on the premises, and be currently inoculated against rabies, if applicable. Documentation of immunizations for all animals that live onsite or are provided by the center shall be maintained at the center.

Authority O.C.G.A. § 49-6-81 **History:** Code 1981, § 49-6-81, enacted by Ga. L. 2003, p. 298, § 1. O.C.G.A. § 49-6-84. **History:** Code 1981, § 49-6-84, enacted by Ga. L. 2003, p. 298, § 1.

290-9-11-.13 Staffing.

(1) **Core Requirements.** Each adult day center shall have as many staff and/or volunteers on duty at all times as may be needed to properly safeguard the health, safety and welfare of the participants, as required by these regulations. At a minimum the following shall be observed:

(a) Each center shall have a Director who is responsible for the day to day operation of the center and in the absence of the Director, a staff member shall be designated to supervise the center;

(b) At least one staff member who has current certification in first aid and CPR shall be in the center at all times; and

(c) Each center shall identify which staff person is responsible for directing activities for the center.

(d) Each center shall provide appropriately qualified staff and/or volunteers in sufficient number to meet the needs of the participants and implement the participant's individual plan of care. At a minimum, adult day centers shall provide a staff and/or volunteer to participant ratio of no less than 1:8. The staffing ratio refers to the staff providing direct services to participants and therefore excludes such employees as clerical or office workers and maintenance or food service staff.

(e) Each center shall maintain a monthly work schedule showing that the center has planned for adequate coverage and shall document actual coverage by date, name, and hours worked.

(2) **Adult Day Health Centers.** In addition to the requirements above, adult day health centers shall provide the following staffing:

(a) A minimum of one staff and/or volunteer for every eight participants or portion thereof;

(b) A registered nurse (RN) who shall assess participant's physical and mental health needs. The RN is responsible for the development and supervision of the participant's individual plan of care within three business days of admission.

(c) If the center employs the services of a licensed practical nurse (LPN), the center shall ensure that the LPN is supervised by an RN as required by O.C.G.A. § 43-26-1 *et. seq.* and is available by phone, pager and/or email when not on site at the center. The nurse shall:

1. Monitor and record participant's vital signs as needed;
2. Observe participant's functional levels and note any changes in physical condition;
3. Monitor medications brought into the center and observe participants for effectiveness and possible side effects;
4. Teach self-care activities and encourage participant's self-care;
5. Assist participants with medications when indicated;
6. Coordinate each participant's individual plan of care with the physician and other service agencies;

7. Notify the participant's primary health care provider and personal representative of changes in the participant's condition;
8. Supervise the provision of and teach other adult day health personnel to perform personal care services provided by center staff; and
9. Document the participant's status in the participant's record.

(d) Appropriately qualified staff to perform skilled therapies, e.g. physical therapy, occupational therapy, and speech therapy, as identified in the participant's individual plan of care; and

(3) Appropriately qualified staff to deliver social services.

Authority O.C.G.A. § 49-6-81. **History:** Code 1981, § 49-6-81, enacted by Ga. L. 2003, p. 298, § 1. O.C.G.A. § 49-6-84. **History:** Code 1981, § 49-6-84, enacted by Ga. L. 2003, p. 298, § 1.

290-9-11-.14 Personnel.

(1) All adult day centers, adult day health centers and mobile adult day centers shall maintain written personnel policies and procedures which address at least the following:

(a) The hiring, training, and supervising of staff members; and

(b) The use, nature and extent of volunteer services, including a screening procedure to select volunteers with appropriate skills to work with the participants, or to help out with the center in a more general way.

(2) Prior to hiring, the center shall search the Georgia Nurse Aide Registry to determine if an individual is designated in the registry as having abused, neglected or exploited a resident or consumer of a facility.

(a) If the employee or applicant has resided in another state, that state's nurse aide registry shall be searched prior to hiring.

(b) If the individual represents that they are certified or licensed, there shall be evidence in the file of the individual having a current license or certification that is not restricted.

(c) Each center shall search the State's website to determine if a prospective nursing employee has been cited for disciplinary actions.

(d) A center shall not utilize a person to provide services who is listed in the Georgia Nurse Aide Registry and/or state licensing/certification boards as having abused, neglected or exploited a resident or consumer of a facility or having their license or certification restricted.

(e) For all staff and volunteer positions, a center shall not employ nor use as volunteers persons with criminal histories which include the abuse, neglect, or exploitation of any disabled or aging adult.

(3) **Training.** The Director shall be responsible for ensuring that any person working in the center as an employee or under contract, receives work-related training acceptable to the Department within the first ninety days of employment. However, for centers providing services prior to the effective date of these rules, the centers shall have until September 30, 2008 to have all such staff who were hired prior to the effective date of these rules certified in first aid and cardiopulmonary resuscitation. Such training for employees shall at a minimum include the following:

(a) Orientation to the rules and regulations contained in this chapter, and to the center's policies and procedures;

(b) Current Red Cross or American Heart Association certification in first aid and cardiopulmonary resuscitation (CPR), or certification by another organization or program with the same or substantially the same standards for certification as determined by the Department;

(c) Training in standard precautions, infection control and latex safety;

(d) Training in identifying participants who may be victims of elder abuse or self-neglect;

(e) Training in participants' rights including the prevention and reporting of suspected abuse, neglect or exploitation;

(f) Training in protecting the confidentiality of participant information and records;

(g) Training on the nature of influenza and the role of vaccination in controlling its spread to those persons having direct participant contact;

(h) Training in diversity and cultural sensitivity; and

(i) Training on Alzheimer's disease and other dementias including communicating and responding to behaviors.

(4) **Adult Day Health Centers.** In addition to the training requirements above, centers that provide adult day health services shall provide training on medications prescribed for participants, benefits of the medications, common side effects and risks, and the laws governing administration of prescribed medications.

(5) The center shall ensure that at least one staff member who has completed the minimum training requirements shall be present in the center at all times.

(6) **Volunteers.** The Director is responsible for ensuring that all volunteers receive training in accordance with the services they provide in the center. At a minimum, all volunteers shall receive training in the following:

- (a) Identifying abuse, neglect and exploitation and the applicable reporting requirements; and
- (b) Participant rights.

(7) **Staff Records.** Each center shall maintain confidential personnel records for each employee and volunteer who provides direct care to participants. Each employee shall have access to his/her personnel record. Individual personnel records on all staff members shall contain at least the following:

- (a) A complete application for employment or volunteer services;
- (b) References, which may be documented as oral references or letters of reference;
- (c) Copy of current license or certificate, as required for the position, including a valid driver's license for persons providing transportation services;
- (d) Staff development records, to include, but not limited to evidence of current certification in CPR and first aid as well as evidence of training for staff first hired after the effective date of these rules.
- (e) Evidence of having checked the Georgia Nurse Aide Registry and having found no record of abuse, neglect or misappropriation in regards to the staff member or volunteer.

(8) **Health Requirements.** All staff and volunteers who provide direct care to participants shall have received a report of physical examination by an authorized healthcare professional within twelve months prior to employment, sufficiently comprehensive to include at least the following:

- (a) Documentation that the employee/volunteer is free of signs and symptoms of communicable diseases; and
- (b) Evidence that all staff/volunteers are free of active tuberculosis based upon the results of a negative tuberculin skin test or chest x-ray.

(9) **Education/License Requirements.**

(a) The adult day center shall employ staff qualified by training or experience to perform all aspects of the position for which they are hired.

(b) **Adult Day Health Centers.** In addition to the above, adult day health centers shall ensure the following:

1. Directors shall have a bachelor's degree or at least four years experience in a health or human services or related field and shall have demonstrated ability to perform all aspects of the position;
2. Nurses shall have a current Georgia license to practice as a nurse; and
3. All contract professionals, i.e. social workers or occupational, physical, or speech therapists, shall be licensed or certified, as required by law; and have experience within the last five years in a health or social services field.

Authority O.C.G.A. § 49-6-81 **History:** Code 1981, § 49-6-81, enacted by Ga. L. 2003, p. 298, § 1. O.C.G.A. § 49-6-84. **History:** Code 1981, § 49-6-84, enacted by Ga. L. 2003, p. 298, § 1.

290-9-11-.15. Admission.

(1) **Admission.** Each adult day center, adult day health center or mobile adult day center shall admit individuals based on the center's comprehensive description of the types of services to be provided by the center and shall only admit individuals for whom the center can meet the participant's needs.

(2) Prior to the provision of services, the Director or his/her designee shall have at least one in-person interview with the applicant and or representative to assess the applicant's needs and suitability for the program and shall obtain the following:

(a) A statement indicating any contraindications or limitations to the individual's participation in center activities;

(b) Evidence that the participant is free of active tuberculosis based upon the results of a negative tuberculin skin test or chest x-ray within 12 months prior to admission;

(c) A signed participant agreement; and

(d) Any other information as required for the participant's care.

(3) In addition to the above, centers that provide assistance with or administration of medications shall obtain documentation of the participant's over the counter and prescription medications:

(4) **Adult Day Health Centers.** In addition to the above, adult day health centers shall obtain documentation of the following:

(a) A medical examination report signed by a physician, nurse practitioner or physician's assistant, completed within six months prior to admission that includes recommendations for care, diet, and medical, nursing, health or supportive services which may be needed;

(b) Physician's orders for any therapies, when applicable.

(5) At admission the center shall ensure that the participant and representative receive a copy of the following:

(a) The center's pertinent policies and procedures required to be provided in the participant agreement, and

(b) Participant's rights information.

(6) **Participant Agreement.** Upon admission to the center, staff shall complete and the participant or their representative shall sign a written agreement. The agreement shall include the following:

(a) A disclosure statement that describes the center's range of care and services;

(b) Specific services to be provided to the participant by the center;

(c) A current statement of all fees and daily, weekly or monthly charges and any additional fees for specific services, goods, or incidental supplies that are not included in the daily charge;

(d) Days and hours of participant attendance;

(e) Arrangements for reimbursement and payment;

(f) Identification of and authorization for third party payors, if applicable;

(g) Any non-financial obligations of the participant and his/her family, such as a commitment by the participant to attend the center a specified number of days per week;

(h) Admission and discharge criteria;

(i) The center's refund policy;

(j) Participant confidentiality policies and procedures specified by the Department;

(k) Schedule of holidays when the center is closed; and

(l) Announcement procedures for unexpected closing of the center due to disaster or severe weather.

Authority O.C.G.A. § 49-6-81 **History:** Code 1981, § 49-6-81, enacted by Ga. L. 2003, p. 298, § 1. O.C.G.A. § 49-6-84. **History:** Code 1981, § 49-6-84, enacted by Ga. L. 2003, p. 298, § 1.

290-9-11-.16. Records.

(1) **Participant Records.** An individual file for each participant shall be established and maintained at the adult day center and shall include the following:

- (a) The participant's full name, address, telephone number, date of birth, marital status, and living arrangement;
- (b) At least two emergency contacts to include name, address, telephone number, and relationship to participant;
- (c) Name, address and telephone number of the participant's primary health care provider;
- (d) A signed participant agreement;
- (e) Any powers of attorney, guardianship orders, or any other documents which identify authorized representatives of the participant, if applicable;
- (f) All individual plans of care including updates;
- (g) Copies of all signed authorizations for the center to receive and provide confidential information on the participant, if applicable;
- (h) Signed authorization for the participant to receive emergency medical care from any licensed medical practitioner, if such emergency care is needed by the participant;
- (i) A medical examination report conducted within six months prior to admission or within thirty (30) days after admission, and updated annually, signed by a licensed physician, physician's assistant or nurse practitioner; and
- (j) A statement signed by the participant or representative acknowledging receipt of center policies.

(2) **Adult Day Health Centers.** In addition to the above, adult day health centers shall maintain the following records:

- (a) An activity participation record for each participant;
- (b) Medication Administration Records; and
- (c) Progress notes including the written report of staff discussions, conferences, consultation with family or other interested parties, evaluation of a participant's progress, and any other information regarding a participant's situation.

(3) **Center Records.** The center shall maintain the following center records:

- (a) Copies of activities schedules;
- (b) Copies of menus served to participants, if applicable;
- (c) Monthly fees collected and fees to be collected;

- (d) A daily record of attendance of participants by name;
 - (e) A written record of all serious or unusual incidents affecting participants, employees or volunteers of the center.
- (4) All records shall be retained for a minimum of three years.

Authority O.C.G.A. § 49-6-81 **History:** Code 1981, § 49-6-81, enacted by Ga. L. 2003, p. 298, § 1. O.C.G.A. § 49-6-84. **History:** Code 1981, § 49-6-84, enacted by Ga. L. 2003, p. 298, § 1.

290-9-11-.17 Participant Rights.

(1) The following rights shall be guaranteed and cannot be waived by the participant or his or her representative:

- (a) The right to be treated as an adult, with respect and dignity;
- (b) The right to participate in a program of services and activities that promotes positive attitudes on one's usefulness and capabilities;
- (c) The right to be free from physical, mental, sexual and verbal abuse, neglect, and exploitation;
- (d) The right to be free from actual or threatened physical or chemical restraints;
- (e) The right to be encouraged and supported in maintaining one's independence to the extent that conditions and circumstances permit, and to be involved in a program of services designed to promote personal independence;
- (f) The right to self-determination within the day care setting, including the opportunity to:
 - 1. Participate in developing one's plan for services;
 - 2. Decide whether or not to participate in any given activity;
 - 3. Be involved to the extent possible in program planning and operation;
 - 4. Refuse to participate in treatment, activities or services at the center;
 - 5. The right to be cared about in an atmosphere of sincere interest and concern in which needed support and services are provided;
 - 6. The right to privacy and confidentiality;
 - 7. The right to be made aware of the grievance process;

8. The right to file a complaint with the Office of Regulatory Services, including the complete address and phone number of the Office, whenever the participant believes that services are not being delivered in accordance with these rules;

9. The right to view inspection reports on the facilities compliance on the Department's web site; and

10. The right to review personal records.

(2) Each participant shall be provided at the time of admission a copy of the participant rights.

(3) Each participant shall receive care and services which shall be adequate, appropriate and in compliance with applicable state laws and regulations.

Authority O.C.G.A. § 49-6-81 **History:** Code 1981, § 49-6-81, enacted by Ga. L. 2003, p. 298, § 1. O.C.G.A. § 49-6-84. **History:** Code 1981, § 49-6-84, enacted by Ga. L. 2003, p. 298, § 1.

290-9-11-.18 Nutrition.

(1) All adult day centers operating for more than four (4) hours a day and/or operating during regularly scheduled mealtimes shall ensure that a nutritious meal is provided to each participant in attendance.

(2) Snacks and fluids shall be available and offered to meet the participant's nutritional and fluid needs. At a minimum, a mid-morning and mid-afternoon snack shall be offered daily to participants.

(3) Meals and snacks provided by the center shall be planned to keep sugar, salt and cholesterol intake to a minimum.

(4) **Adult Day Health Centers.** In addition to the above, adult day health centers shall ensure the following:

(a) A meal shall meet at least one-third of an adult's daily nutritional requirement as specified by the Dietary Guidelines for Americans;

(b) A therapeutic diet shall be provided when prescribed in writing by a physician, physician's assistant or nurse practitioner;

(c) Menus shall be approved by a dietitian or RN;

(d) A dietitian shall provide written techniques to staff on basic and special nutritional needs and proper food handling techniques and the prevention of food borne illness; and

(e) If therapeutic diets are prepared by center staff, such staff shall have training in planning and preparing therapeutic diets or shall provide documentation of previous training and education sufficient to assure ability to prepare meals in accordance with a physician's order.

(5) Food services for adult day centers licensed to care for 24 or more participants per day are subject to the provisions of the Rules and Regulations of the Department of Human Resources for Food Service, Chapter 290-5-14 *et. seq.* and any local health ordinances. Such a center must obtain a valid food service permit.

(6) Adult day centers licensed to care for fewer than 24 participants per day or not required to obtain a food service permit shall meet the following requirements:

(a) Each center preparing and providing meals shall have a properly equipped kitchen;

(b) Each center shall store, prepare, distribute, and serve food under sanitary conditions with generally accepted and recognized food service standards to prevent food borne illness;

(c) All foods served to participants must originate from a reputable source;

(d) All perishable foods shall be stored at such temperatures as will protect against spoilage;

(e) All foods while being stored, prepared, or served shall be protected against contamination and be safe for human consumption;

(f) All foods must be cooked, maintained, stored, and served at appropriate temperatures;

(g) Refrigerator temperatures shall be maintained at or below 41 degrees Fahrenheit and freezers at 0 degrees Fahrenheit;

(h) All foods shall be in sound condition, free from spoilage and contamination and shall be safe for human consumption; and

(i) Non-disposable dishes, glasses and silverware shall be properly cleaned by pre-rinsing and scraping, washing, sanitizing and drying.

Authority O.C.G.A. § 49-6-81 **History:** Code 1981, § 49-6-81, enacted by Ga. L. 2003, p. 298, § 1. O.C.G.A. § 49-6-84. **History:** Code 1981, § 49-6-84, enacted by Ga. L. 2003, p. 298, § 1.

290-9-11-.19 Medications.

(1) All medications required by a participant in an adult day center that does not employ a licensed RN or LPN shall be self-administered by the participant.

(2) Centers that provide assistance with medication without employing a licensed RN or LPN may do so to the following extent:

(a) Staff may remind participants of the time to take medication;

(b) Staff may check the dosage according to the container label; and

- (c) Staff may physically assist a participant in opening or pouring the medication.
- (3) Adult day centers that employ the services of an RN or an LPN may have the licensed nurse administer medications in accordance with all applicable laws and regulations.
- (4) The center shall maintain documentation of all medications, prescription and over-the-counter, that are supervised by staff or administered by licensed nursing staff. The documentation record must include:
 - (a) The name of the medication;
 - (b) Dosage; and
 - (c) Date, time and signature of the staff person who assists the participant or administers the medications to the participant.
- (5) Participants shall have the right to refuse any and all medications. The center's Director or licensed nursing staff shall report such incidents to the participant's family and/or representative.
- (6) The center shall have the right not to accept, and/or to discharge a participant who refuses assistance with medications if the center reasonably feels that the participant cannot safely possess and control his/her medications.
- (7) The center shall record each instance of medication refusal by a participant in the participant's individual record.
- (8) All medications in the center shall be stored securely and in a manner to prevent spoilage, dosage errors, administrative errors, and inappropriate access.
 - (a) A participant may keep possession of medications needed for frequent or emergency use;
 - (b) The center shall store all medications that require refrigeration in a locked container in the refrigerator.
- (9) All medications shall be in the original pharmacy-dispensed container with a proper label and directions attached.
- (10) Medications by injection, including but not limited to insulin, shall be administered by a nurse if the participant is unable to self-administer the medication.
- (11) Individual medication records shall be retained for each participant to whom medications are being administered and each dose administered to the participant shall be properly recorded.
- (12) A nurse shall monitor the medication regimen for all participants. He/she shall:

(a) Evaluate the health status of the participant by identifying symptoms of illness and/or changes in mental and/or physical health status;

(b) Make recommendations to the family or primary health care provider regarding any medication needs or other health needs requiring follow up; and

(c) Follow up on previous recommendations.

(13) At the end of the program day, or when the shift ends, the nurse shall count all controlled substances and sign the controlled substance book. If the nurse on duty at the next shift or at the beginning of the next program day is not present during the above counts, he/she shall count all controlled substances and sign the controlled substance book immediately after beginning the work period. Any discrepancies in count shall be reported immediately to the Director.

(14) Unused or discontinued prescription medications are the property of the participant and shall be given to the participant and/or the representative, whenever possible.

(15) Any unused or discontinued prescription medications that are left with a center shall be disposed in accordance with applicable Georgia laws.

(16) The Director, the activities director or a center nurse must immediately report to the representative any unusual reactions to medications or treatments.

(17) **Bio-Medical and Hazardous Waste.** The storage and disposal of bio-medical and hazardous wastes must comply with applicable federal, state and local rules and/or standards.

Authority O.C.G.A. § 49-6-81 **History:** Code 1981, § 49-6-81, enacted by Ga. L. 2003, p. 298, § 1. O.C.G.A. § 49-6-84. **History:** Code 1981, § 49-6-84, enacted by Ga. L. 2003, p. 298, § 1.

290-9-11-.20 Transportation.

(1) The center may provide transportation and/or assist in arranging transportation services for participants.

(2) When transportation is provided to participants through center operated vehicles, the operation of each vehicle shall be in conformance with all applicable state and federal regulations relative to both driver and vehicle.

(3) Where the center contracts for transportation services, the center shall require that the contractor provide proof of insurance and current vehicle registration.

(4) When the adult day center provides transportation, the following requirements shall be met to ensure the health and safety of the participants:

(a) Each person transported shall have a seat in the vehicle;

(b) Vehicles used to transport participants shall be equipped with seatbelts;

- (c) Participants shall be required to use seatbelts while being transported;
- (d) Each vehicle shall have a first aid kit, along with fire extinguisher and safety triangles.
- (e) The driver or attendant shall be trained in first aid procedures which include but are not necessarily limited to the following:
 - 1. Care during a seizure;
 - 2. Basic first aid; and
 - 3. Cardiopulmonary resuscitation (CPR).
- (f) The driver or attendant shall have medical and emergency information in the vehicle for participants being transported.
- (g) All transportation vehicles shall be equipped with a device for two-way communication.
- (h) The transportation vehicle shall be in safe operating condition.
- (i) Each vehicle which transports participants shall have a trip roster which contains the addresses of the participants and the emergency contact phone numbers for each participant.

Authority O.C.G.A. § 49-6-81 **History:** Code 1981, § 49-6-81, enacted by Ga. L. 2003, p. 298, § 1. O.C.G.A. § 49-6-84. **History:** Code 1981, § 49-6-84, enacted by Ga. L. 2003, p. 298, § 1.

290-9-11-.21 Procedures for Change in Condition.

- (1) In case of an accident or adverse change in a participant's condition or adjustment, the center shall immediately obtain needed care and notify the representative or emergency contact.
- (2) The center shall immediately investigate the cause of an accident or injury involving a participant and take necessary steps to prevent recurrence.
- (3) A record of incidents, accidents, injuries, illnesses and emergencies involving the participant shall be maintained in the participant's file.
- (4) **Accidents.** In an emergency situation where the participants are subject to an imminent and substantial danger that only immediate transfer or discharge will relieve, the center shall transfer or arrange for the transfer of the participant to another health facility or call 911 for emergency medical assistance.
- (5) The person in charge shall document in the participant's file the reasons for such emergency transfer and shall immediately inform the participant's guardian and other persons of the participant's choice regarding such transfer and the place where the participant is to be transferred.

Authority O.C.G.A. § 49-6-81 **History:** Code 1981, § 49-6-81, enacted by Ga. L. 2003, p. 298, § 1. O.C.G.A. § 49-6-84. **History:** Code 1981, § 49-6-84, enacted by Ga. L. 2003, p. 298, § 1.

290-9-11-.22 Immediate Transfer, Discharge and Death.

(1) **Immediate Transfer.** In case of emergency, such as acute illness, if family or the participant's representative cannot be reached, a signed release shall be on file stating that the participant may be sent to the nearest hospital emergency room for treatment.

(2) **Discharge.** Each participant agreement shall include a written procedure for handling discharge of the participant that complies with these rules.

(a) Each participant and/or representative shall be given 14 days written notice if the participant is to be discharged from the center for other than emergency reasons.

(b) During a participant's placement in a center, the participant agreement required by Rule 290-9-11-.22(2) regarding plans for discharge shall be adjusted according to the participant's circumstances.

(c) Emergency discharges are authorized when the health, safety and welfare of the participant or other participants at the center may be endangered by the participant's further placement in the center.

(3) **Death.** Upon the death of a participant while in the center, local law enforcement shall be notified in addition to the participant's representative and/or family members and other medical personnel.

Authority O.C.G.A. § 49-6-81 **History:** Code 1981, § 49-6-81, enacted by Ga. L. 2003, p. 298, § 1. O.C.G.A. § 49-6-84. **History:** Code 1981, § 49-6-84, enacted by Ga. L. 2003, p. 298, § 1.

290-9-11-.23 Reporting Requirements.

(1) **Serious Incidents.** All adult day centers and mobile adult day centers shall maintain records and submit on a timely basis reports required by the Department.

(2) On forms provided by the Department, no later than the next business day, the adult day center or mobile adult day center shall report whenever any of the following serious or unusual incidents involving a participant occurs or center has reasonable cause to believe that an incident involving a participant has occurred:

(a) Any death of an adult day center or mobile adult day center participant which occurs at the center;

(b) Any rape of a participant that occurs at the center;

(c) Any serious injury to a participant that requires medical attention;

- (d) Any suspected abuse, neglect or exploitation of a participant that occurs at the center; and
- (e) Any time a participant cannot be located and the participant has been missing for more than thirty (30) minutes.

(3) Reports of participant incidents shall include:

- (a) The name of the adult day center or mobile adult day center, the name of the Director, and a contact telephone number for information related to the report;
- (b) The date of the incident and the date the adult day center or mobile adult day center became aware of the incident;
- (c) The type of incident, with a brief description of the incident; and
- (d) Any immediate corrective or preventive action taken by the adult day center or mobile adult day center to ensure against the replication of the incident.

(4) The adult day center or mobile adult day center shall conduct an internal investigation of any of the serious or unusual incidents listed in subparagraph (a) of this paragraph and shall complete and retain on-site a written report of the results of the investigation within five (5) business days of the discovery of the incident. The complete report shall be readily available to the Department for inspection and shall contain at least the following:

- (a) An explanation of the circumstances surrounding the incident, including the results of a root cause analysis or any other system analysis;
- (b) Any findings or conclusions associated with the review; and
- (c) A summary of any actions taken to correct identified problems associated with the incident and to prevent recurrence of the incident, and also any changes in procedures or practices resulting from the investigation.

(5) Other Incidents Requiring Report.

(a) The adult day center shall report to the Department whenever any of the following events involving adult day center operations occurs or when the adult day center becomes aware that it is likely to occur, to the extent that the event is expected to cause or causes a significant disruption of care for adult day center participants:

1. An external disaster or other community emergency situation which causes a complete disruption in services; or
2. An interruption of services vital to the continued safe operation of an adult day center, such as telephone, electricity, gas, or water services.

(b) The adult day center shall make a report of the event not later than the next business day from when the reportable event occurred or from when the adult day center has reasonable cause to anticipate that the event is likely to occur. The report shall include:

1. The name of the adult day center, the name of the Director, and a contact telephone number for information related to the report;
2. The date of the event, or the anticipated date of the event, and the anticipated duration, if known;
3. The anticipated effect on care and services for adult day center participants; and
4. Any immediate plans the adult day center has made regarding participant management during the event.

(6) Where the Department determines that a rule violation related to any self-reported incident or event has occurred, the Department shall initiate a separate complaint investigation of the incident. The complaint investigation report and the report of any rule violation compiled by the Department arising either from the initial report received from the adult day center or an independent source shall be subject to disclosure in accordance with applicable laws.

Authority O.C.G.A. § 49-6-81 **History:** Code 1981, § 49-6-81, enacted by Ga. L. 2003, p. 298, § 1. O.C.G.A. § 49-6-84. **History:** Code 1981, § 49-6-84, enacted by Ga. L. 2003, p. 298, § 1.

290-9-11-.24 Quality Assurance.

(1) Adult day centers shall develop and implement an annual quality improvement plan to evaluate and improve the effectiveness of the program's operation and services to ensure continuous improvement in service delivery. The plan shall include the parties to be involved and the areas which will be addressed. A formal evaluation shall be conducted at regular intervals, but at least annually.

(2) The evaluation process shall include:

- (a) A review of the existing program including serious incidents and corrective actions taken;
- (b) Satisfaction survey results or comments and complaints received from staff, participants and/or participant's representatives;
- (c) Program modifications made in response to changing needs of participants; and
- (d) Proposed program administrative improvements.

(3) The center shall prepare a written report which summarizes the evaluation findings, improvement goals and implementation plan.

(4) Findings of the quality improvement evaluation shall be utilized to correct identified problems, revise adult day center and mobile adult day center policies, and improve the care of participants.

Authority O.C.G.A. § 49-6-81 **History:** Code 1981, § 49-6-81, enacted by Ga. L. 2003, p. 298, § 1. O.C.G.A. § 49-6-84. **History:** Code 1981, § 49-6-84, enacted by Ga. L. 2003, p. 298, § 1.

290-9-11-.25 Infection Control.

(1) Each adult day center shall develop and implement policies and procedures that address infection control issues in all components of the adult day center. These policies and procedures shall be based on accepted standards of infection control, approved by the Director or nurse designee, and shall address at least the following:

- (a) Hand hygiene;
- (b) Cleaning, disinfecting, and sterilizing participant areas;
- (c) Isolation precautions;
- (d) Handling, transport, and disposal of medical waste or bodily fluids;
- (e) Center requirements for communicable disease health screening, including tuberculosis surveillance and any recommended immunizations;
- (f) Use of personal protective equipment and exposure reporting/follow-up;
- (g) Work restrictions for staff with potentially infectious diseases;
- (h) Evaluation of the participant related to infection control risks;
- (i) Outbreak investigation procedures;
- (j) Dietary practices;
- (k) Reporting of communicable diseases, as required by law; and
- (l) Standard precautions.

(2) **Adult Day Health Centers.** In addition to the above, adult day health centers shall develop and implement policies and procedures that address infection control issues regarding the following:

- (a) Wound care;
- (b) Urinary tract care;

- (c) Respiratory therapy;
- (d) Enteral therapy; and
- (e) Infusion therapy.

(3) The infection control program shall be evaluated at least annually to ensure the effectiveness of the program related to the prevention of the transmission of infections to participants and staff.

Authority O.C.G.A. § 49-6-81 **History:** Code 1981, § 49-6-81, enacted by Ga. L. 2003, p. 298, § 1. O.C.G.A. § 49-6-84. **History:** Code 1981, § 49-6-84, enacted by Ga. L. 2003, p. 298, § 1.

290-9-11-.26 Inspections by Department Staff.

(1) The Department is authorized and empowered to conduct complaint investigations and periodic on-site inspections of any center required by these rules to be licensed when determined necessary.

(2) Prior to licensure and periodically thereafter, the Department shall inspect each adult day center to ensure that the licensee is providing adequate care to its participants and is in compliance with all applicable rules and regulations.

(3) An application for a license or the issuance of a license by the Department constitutes consent by the applicant, the proposed holder of the license and the owner of the premises for the Department's representative, after displaying proper identification to any center staff, to enter the premises at any time during operating hours for the purpose of inspecting the center to determine compliance with these rules.

(a) The adult day center staff, facilities, and participants shall be accessible during all hours of operation to properly identified representatives of the Department for inspections and investigations relating to the adult day center's license.

(b) For the purposes of any inspection, investigation, or survey conducted by the Department, the adult day center shall provide to properly identified representatives of the Department meaningful access to all books, records, papers, or other information related to the licensing of the adult day center.

(c) The adult day center shall correct all violations cited.

(4) Knowingly making any verbal or written false statement of material fact in connection with any inspection or investigation or supplying false or misleading information is grounds for denial or revocation of a license.

(5) The Department may exempt a center from periodic inspections if such center has been certified or accredited by a certification or accreditation entity recognized and approved by the Department if such entity uses standards that are substantially similar to those established by the Department. A center seeking exemption from inspection shall be required to submit to the

Department documentation of certification or accreditation, including a copy of its most recent certification or accreditation inspection report, which shall be maintained by the Department as a public record.

Authority O.C.G.A. § 49-6-85. **History:** Code 1981, § 49-6-85, enacted by Ga. L. 2003, p. 298, § 1.

290-9-11-.27 Variances and Waivers.

(1) A center may request a waiver or variance of a specific rule by application on forms provided by the Department. A waiver or variance may be granted in accordance with the following considerations:

(a) The Department may grant or deny the request for waiver or variance at its discretion. If the waiver or variance is granted, the Department may establish conditions that must be met by the adult day center in order to operate under the waiver or variance. Waivers or variances may be granted with consideration of the following:

1. **Variance.** A variance may be granted by the Department upon a showing by the applicant that the particular rule or regulation that is the subject of the variance request should not be applied as written because strict application would cause undue hardship. The applicant must also show that adequate standards exist for affording protection for the health, safety, and care of participants, and these existing standards would be met in lieu of the exact requirements of the rule or regulation;

2. **Waiver.** The Department may dispense altogether with the enforcement of a rule or regulation by granting a waiver upon a showing by the applicant that the purpose of the rule or regulation is met through equivalent standards affording equivalent protection for the health, safety, and care of the participants, or by demonstrating that the purpose of the statute on which the underlying rule is based can be or has been achieved by other specific means and that strict application of the rule(s) would create a substantial hardship for the applicant;

3. **Experimental Waiver or Variance.** The Department may grant a waiver or variance to allow experimentation and demonstration of new and innovative approaches to delivery of services upon a showing by the applicant that the intended protections afforded by the rule or regulation in question are met and that the innovative approach has the potential to improve service delivery.

(b) Waivers and variances granted by the Department shall be for a time certain, as determined by the Department.

(c) Waivers and variances granted to an adult day center shall be recorded and shall be available to the public through posting to the State's rules/waiver register.

Authority O.C.G.A. § 49-6-81 and § 50-13-9.1. **History:** Code 1981, § 49-6-81, enacted by Ga. L. 2003, p. 298, § 1. O.C.G.A. § 49-6-84. **History:** Code 1981, § 49-6-84, enacted by Ga. L. 2003, p. 298, § 1.

290-9-11-.28 Enforcement and Penalties.

(1) **Plans of Correction.** If the Department determines that either an adult day center, adult day health center, or a mobile adult day center, or a center applying to become licensed does not comply with the rules, the Department shall provide written notice specifying the rule(s) violated and setting a time for the adult day center not to exceed ten (10) business days within which to file an acceptable written plan of correction where the Department has determined that an opportunity to correct is permissible.

(2) The adult day center or shall submit to the Department a written plan of correction in response to any inspection report of violations. The plan of correction shall include actions taken to ensure such violations do not recur and the dates of the corrective actions.

(3) A plan of correction must be determined to be acceptable by the Department. If such plan of correction is determined not acceptable to the Department because it does not adequately correct the identified violation, the Department will advise the adult day center or facility applying to become licensed that the plan of correction is not acceptable. The Department may permit the adult day center to submit a revised plan of correction.

(a) The adult day center shall comply with an accepted plan of correction.

(b) Where the Department determines that either the adult day center or the facility applying to become licensed as an adult day has not filed an acceptable plan of correction or has not complied with the accepted plan of correction, the Department may initiate an adverse action to enforce these rules.

(4) **Required Notifications for Revocations and Suspensions.** The facility shall notify each participant and/or each participant's legal guardian(s) of the Department's actions to revoke the license or seek an emergency suspension of the facility's license to operate.

(a) The official notice of the revocation or emergency suspension action and any final resolution, together with the Department's complaint intake phone number and website address, shall be provided by the facility to each current and prospective participant and/or their legal guardian.

(b) The facility shall ensure the posting of the official notice at the facility in an area that is visible to each participant and/or their legal guardian(s).

(c) The facility shall ensure that the official notice continues to be visible to each participant and/or their legal guardian(s) throughout the pendency of the revocation and emergency suspension actions, including any appeals.

(d) The facility shall have posted in an area that is readily visible to each participant and/or their legal guardian(s) any inspection reports that are prepared by the Department during the pendency of any revocation or emergency suspension action.

(e) It shall be a violation of these rules for the facility to permit the removal or obliteration of any posted notices of revocation, emergency suspension action, resolution, or inspection survey during the pendency of any revocation or emergency suspension action.

(f) The Department may post an official notice of the revocation or emergency suspension action on its website or share the notice of the revocation or emergency suspension action and any information pertaining thereto with any other agencies that may have an interest in the welfare of the participants in care of the agency.

(5) The Department is authorized to issue, deny, suspend, or revoke licenses or take other enforcement actions against licensees or applicants as provided in accordance with these rules and regulations, applicable licensing laws, Chapter 290-1-6 and O.C.G.A. § 31-2-6. All rules and regulations and any enforcement actions initiated by the Department shall comply with the requirements of Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.”

Authority O.C.G.A. § 49-6-84 **History:** Code 1981, § 49-6-84, enacted by Ga. L. 2003, p. 298, § 1. O.C.G.A. §§ 31-2-6, 49-5-8, 49-5-12, 49-5-12.1. **History.** Original Rule entitled “Enforcement of Law and Rules” adopted. F. Mar. 16, 2000; off. Apr. 8, 2000. **Repealed:** New Rule entitled “Enforcement and Penalties” adopted. F. Aug. 21, 2006; off. Sept. 10, 2006.

290-9-11-.29 Severability. In the event that any rule, sentence, clause, or phrase of any of these rules and regulations may be construed by any court of competent jurisdiction to be invalid, illegal, unconstitutional, or otherwise unenforceable, such determination or adjudication shall in no manner affect the remaining rules or portion thereof. The remaining rules or portions of rules shall remain in full force and effect, as if such rule or portions thereof so determined, declared, or adjudged invalid or unconstitutional were not originally a part of these rules.

Authority O.C.G.A. § 49-6-81 **History:** Code 1981, § 49-6-81, enacted by Ga. L. 2003, p. 298, § 1. O.C.G.A. § 49-6-84. **History:** Code 1981, § 49-6-84, enacted by Ga. L. 2003, p. 298, § 1.