Georgia Rules and Regulations
Administrative Bulletin for September 2023

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Final rules filed with the Georgia Secretary of State during the month of *September 2023:*

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Department 111. RULES OF DEPARTMENT OF COMMUNITY HEALTH

Chapter 111-8. HEALTHCARE FACILITY REGULATION

Subject 111-8-25. GENERAL LICENSING AND ENFORCEMENT REQUIREMENTS

111-8-25-.05 Sanctions

(1) **Sanctions against Licensees.** When the department finds that any licensee has violated any provision of Rule 111-8-25-.04, Enforcement, the department, subject to notice and opportunity for a hearing, may impose any one or more of the sanctions in subparagraphs (a) through (f) below.

(a) **Administer a Public Reprimand.** If the sanction of public reprimand is finally imposed, as defined by a final adverse finding, the public reprimand shall consist of a notice prepared by the department that the facility has been reprimanded; such notice shall include a written report of the department's findings along with the facility's response and corrective action plan.

1. **Location of Notice.** The facility shall post the public reprimand in places readily accessible and continuously visible to persons in care and their representatives. Additionally, if the facility maintains a website, it shall post a web link in a prominent location on the main page of the website that provides access to a copy of the public reprimand.

2. **Timing of Notice.** The facility shall post the public reprimand on the day the public reprimand is received by the facility and such reprimand shall remain posted for a period of ninety (90) days.

3. **Notice for Service Inquiries.** During any period that the reprimand is required to be posted, the facility shall advise persons seeking services and representatives of persons seeking services of the reprimand. In response to a notice by the department of the imposition of a public reprimand, a facility may request that the department not require the facility to advise persons seeking services and representatives of persons seeking services of the reprimand if such requirement would compromise its ability to provide services and is not feasible given the facility's range of services and the ways its services are provided. Such request must be made within ten (10) calendar days from receipt of the notice from the department. The department upon such a convincing showing, as well as a showing that the correction of the violation has been achieved and will be sustained by the facility, may elect not to enforce this requirement. If the department elects to enforce the requirement and the facility appeals the imposition of the sanction, the issue of this requirement may become an issue for consideration by the hearing examiner at any hearing held on the sanction, unless waived by the facility.

(b) **Suspend any License.** The department may suspend for a definite period or for an indefinite period in connection with any condition which may be attached to the restoration of said license.

1. The department may impose the sanction of suspension for a definite period calculated by it as the period necessary for the facility to implement long-term corrective measures and for the facility to be deterred from lapsing into noncompliance in the future. As an alternative to suspending a license for a definite period, the department may suspend the license for an indefinite period in connection with the imposition of any condition or conditions reasonably calculated to elicit long-term compliance with licensing requirements which the facility must meet and demonstrate before it may regain its license.

2. If the sanction of license suspension is finally imposed, as defined by a final adverse finding, the department shall effectuate it by requiring the facility to return its license to the department. Upon the expiration of any period of suspension, and upon a showing by the facility that it has achieved compliance with licensing requirements, the department shall reissue the facility a license. Where the license was suspended for an indefinite period in

connection with conditions for the re-issuance of a license, once the facility can show that any and all conditions imposed by the department have been met, the department shall reissue the facility a license.

(c) **Prohibit Persons in Management or Control.** The department may prohibit a licensee from allowing a person who previously was involved in the management or control of any facility which has had its license revoked or application denied within the past twelve (12) months to be involved in the management or control of such facility. Any such person found by the department to have acted diligently and in good faith to ensure correction of violations in a facility which has had its license revoked or denied, however, shall not be subject to this prohibition if that person became involved in the management or control of the facility after the facility was notified by the department of violations of licensing requirements giving rise to a revocation or denial action. This subparagraph shall not be construed to require the department to obtain any information that is not readily available to it regarding any person's involvement with a facility. For the purpose of this Rule, the twelve (12) month period will begin to run from the date of any final adverse finding or the date that any stay of enforcement ceased, whichever first occurs.

(d) **Revoke any License.** The department may revoke any license. If the sanction of license revocation is finally imposed, as defined by a final adverse finding, the department shall effectuate it by requiring the facility to return its license to the department.

(e) **Impose a Civil Penalty Fine.** The department may impose a civil penalty fine of up to $2,000 per day for each violation of a law, rule, regulation, or formal order related to the initial or continued licensing of a facility; provided, however, that no such fines shall exceed $40,000 for violations found during the same inspection. If a violation is found on two (2) consecutive inspections, there shall exist a rebuttable presumption that the violation continued throughout the period of time between each inspection.

1. **Categories of Violations.** Violations shall be assigned a category based upon the following criteria:

(i) **Category I** ($1,201-$2,000 per violation per day): A violation or combination of violations of licensing requirements which has caused death or serious physical or emotional harm to a person or persons in care or poses an imminent and serious threat or hazard to the physical or emotional health and safety of one or more persons in care;

(ii) **Category II** ($601-$1,200 per violation per day): A violation or combination of violations of licensing requirements which has direct adverse effect on the physical or emotional health and safety of a person or persons in care; and

(iii) **Category III** ($100-$600 per violation per day): A violation or combination of violations of licensing requirements which indirectly or over a period of time has or is likely to have an adverse effect on the physical or emotional health and safety of a person or persons in care, or a violation or violations of administrative, reporting, or notice requirements.

2. **Fine Amounts.** The specific amount of the fine for each violation in each category shall be determined based upon whether and when the particular or similar rule, law, or order, or the act, omission, incident, circumstance, or conduct giving rise to the violation of the same regulatory requirement, or one substantially similar thereto, has been cited by the department previously. In no case, however, shall a facility be sanctioned for a violation characterized as a subsequent or repeat violation unless the time frame identified in the acceptable plan of correction has passed and the facility nonetheless has failed to attain or maintain correction.

(i) **Initial Violation.** If the same or a substantially similar violation has not been cited previously by the department within the past twenty-four (24) months against the facility, it shall be considered to be an initial violation. The fine amount for initial violations shall be the bottom figure in the appropriate category.

(ii) **Subsequent Violation.** If the present violation or a substantially similar violation had been found and cited by the department as the result of the last inspection of the facility, or as the result of any one other inspection during the previous twenty-four (24) months, the violations shall be considered to be a subsequent violation. The fine amount for subsequent violations shall be in the range between the top and bottom figures of the appropriate

category and other factors, such as the existence of mitigating or aggravating circumstances, shall be considered in determining the fine amount within the range.

(iii) **Repeat Violation.** If the present violation or a substantially similar violation also had been found and cited any two (2) other times during the past twenty-four (24) months, it shall be considered to be a repeat violation. The fine amount for repeat violations shall be the top figure in the category.

3. **Limitation of Fines.** A single act, omission, incident, circumstance, or conduct shall not give rise to the imposition of more than one fine even though such act, omission, incident, circumstance, or conduct may have violated more than one licensing requirement. In such a case, the fine shall be based upon the highest category in which any one violation resulting from the same act, omission, incident, circumstance, or conduct falls. Correction by the facility of cited violations tolls the continuation of the assessment of the daily fine, provided, however, that the department shall confirm that such cited violations were corrected.

4. **Financial Hardships.** In response to a notice by the department of the imposition a fine, a facility may request that the department reduce the fine amount if the fine would cause significant financial hardship that would compromise its ability to provide care or services in compliance with licensing requirements. The department, in its discretion, upon such a convincing showing as well as a showing that correction of the violation has been achieved and will be sustained by the facility, may reduce the amount of the fine. If the department proceeds with the imposition of the fine as proposed, the issue of significant financial hardship may become an issue for consideration by the hearing examiner at any hearing held on the sanction, unless waived by the facility.

5. **Mandatory Fines.** The Department shall impose mandatory fines in the following circumstances:

(i) **Long-Term Care Facilities**. The Department shall impose a mandatory fine of no less than $5,000.00 for a violation of a law, rule, regulation, or formal order related to the initial or ongoing licensing of a long-term care facility which has caused the death of or serious physical harm to a resident in such facility. For purposes of this subparagraph, the term 'serious physical harm' means an injury which causes any significant impairment of the physical condition of the resident as determined by qualified medical personnel which may be proven by testimony or by submission of the medical record. Any mandatory fine imposed by the Department may not be reduced on the basis of financial hardship. Mandatory fines for nursing homes related to closure, change of ownership or other material changes are set forth in Rule 111-8-56-.20(5).

(ii) **Hospitals and Related Institutions**. The Department shall impose a mandatory fine of no less than $5,000.00 for a violation of O.C.G.A. § 31-7-3.5.

6. **Federal Preemption.** No fine, whether discretionary or mandatory, may be imposed against any nursing facility, nursing home, or intermediate care facility which is subject to intermediate sanctions under the provisions of 42 U.S.C. § 1396r(h)(2)(A), as amended, whether or not those sanctions actually are imposed.

(f) **Limit or Restrict any License.** The department may limit or restrict any license as the department deems necessary for the protection of the public (a provisional or temporary time-limited license granted by the department shall not be considered to be a limited or restricted license).

1. Limitation or restriction of a license may occur to:

(i) prohibit the provision of a particular service or services when a facility is unable or unwilling to render or perform the service or services in compliance with licensing requirements;

(ii) restrict the authorized number of persons cared for by a facility when the facility is unable or unwilling to render care in compliance with licensing requirements; and/or

(iii) prohibit a facility from caring for persons with specific types or degrees of needs that the facility is not capable of meeting in compliance with licensing requirements.

2. If the sanction of license limitation or restriction is finally imposed, as defined by a final adverse finding, the department shall effectuate it by sending the facility a restricted or limited license. Upon receipt of the restricted or limited license, the facility shall return to the department its original license. Upon expiration of the restriction or limitation period, and upon proof by the facility that it has taken effective corrective action and has sustained that action during the period of the sanction, the department shall fully restore the facility's license. The department shall take any steps it deems necessary to verify compliance prior to the expiration of the sanction period so that a compliant facility is restored its license without delay.

(2) **Sanctions against Applicants.** When the department finds that any applicant for a license has violated any provision of Rule 111-8-25-.04, Enforcement, the department, subject to notice and opportunity for a hearing, may impose any one or more of the following sanctions in subparagraphs (a) through (c) below.

(a) **Refuse to Grant License.** The department may refuse to grant (deny) a license; provided, however, that the department may refuse to grant an initial license without holding a hearing prior to taking such action.

1. The department may deny an application for a license where the facility has failed to demonstrate compliance with licensing requirements. Additionally, the department may deny an application for a license where the applicant or alter ego of the applicant has had a license denied, revoked, or suspended within one year of the date of an application, or where the applicant has surrendered the license or transferred ownership or governing authority of a facility within one year of the date of a new application when such surrender or transfer was made in order to avert denial, revocation, or suspension of a license or payment of fines. For the purpose of determining the one-year denial period, the period shall begin to run from the date of the final adverse finding, or the date any stay of enforcement ceased, whichever first occurs. In further determining whether to grant or deny a license, the department may consider the applicant's overall record of compliance with licensing requirements.

(b) **Prohibit Persons in Management or Control.** The department may prohibit an applicant from allowing a person who previously was involved in the management or control of any facility which has had its license revoked or application denied within the past twelve (12) months to be involved in the management or control of such facility. Any such person found by the department to have acted diligently and in good faith to ensure correction of violations in a facility which has had its license revoked or denied, however, shall not be subject to this prohibition if that person became involved in the management or control of the facility after the facility was notified by the department of violations of licensing requirements giving rise to denial action. This subparagraph shall not be construed to require the department to obtain any information that is not readily available to it regarding any person's involvement with a facility. For the purpose of this rule, the twelve (12) month period will begin to run from the date of any final adverse finding or the date that any stay of enforcement ceased, whichever first occurs.

(c) **Limit or Restrict any License.** The department may limit or restrict any license as it deems necessary for the protection of the public (a provisional or temporary time-limited license granted by the department shall not be considered to be a limited or restricted license).

1. Limitations or restrictions of a license may include any or all of the following as determined necessary by the department:

(i) prohibiting the provision of a particular service or services when a facility is unable or unwilling to render or perform the service or services in compliance with licensing requirements;

(ii) restricting the authorized number of persons cared for by a facility when the facility is unable or unwilling to render care in compliance with licensing requirements; and

(iii) prohibiting a facility from caring for persons with specific types or degrees of needs that the facility is not capable of meeting in compliance with licensing requirements.

2. The department may restrict a license where any applicant or alter ego of the applicant has had a license denied, revoked, or suspended within one (1) year of the date of an application, or where the applicant has surrendered the license or transferred ownership of governing authority of a facility within one (1) year of the date of a new application when such surrender or transfer was made in order to avert denial, revocation, suspension of a license, or

payment of fines. For the purpose of determining the one (1) year denial period, the period shall begin to run from the date of the final adverse finding or the date any stay of enforcement ceased, whichever occurs first.

3. If the sanction of license limitation or restriction is finally imposed, as defined by a final adverse finding, the department shall effectuate it by sending the facility a restricted or limited license. Upon receipt of the restricted or limited license, the facility shall return to the department its original license if one was granted. Upon expiration of the restriction or limitation period, and upon proof by the facility that it has taken effective corrective action and has sustained that action during the period of the sanction, the department may issue the facility a license. The department shall take any steps it deems necessary to verify compliance prior to the expiration of the sanction period so that a compliant facility may be issued a license without delay.

(3) **Extraordinary Sanctions Where Imminent and Substantial Danger.** Where the Commissioner of the department determines that the patients or residents in the care of an institution, community living arrangement or drug abuse treatment program subject to licensure are subject to an imminent and substantial danger, the Commissioner may order any of the extraordinary sanctions listed in subsections (b), (c), (d) and (e), of this rule, 111-8-25-.05(3), to take effect immediately unless otherwise specified in the order, without notice and opportunity for hearing prior to the order taking effect.

(a) **Content of the Order.** The order shall contain the following:

1. the scope of the order;

2. reasons for the issuance of the order;

3. effective date of the order if other than the date the order is issued;

4. person to whom questions concerning the order are to be addressed; and

5. notice of the right to obtain after the issuance of the order, a preliminary hearing and an administrative hearing regarding the emergency order as a contested case.

(b) **Emergency Relocation.** The Commissioner may order emergency relocation of the patients or residents of any institution, community living arrangement or drug abuse treatment program subject to licensure to the nearest appropriate institution, community living arrangement or drug abuse treatment program. Prior to issuing an emergency order, the Commissioner may consult with persons knowledgeable in the field of medical care and a representative of the facility to determine if there is a potential for greater adverse effects on patient or resident care as a result of the proposed issuance of an emergency order. The Commissioner shall provide for notice to the patient or resident, his or her next of kin or guardian and his or her physician of the emergency relocation and the reasons therefore; relocation to the nearest appropriate institution, community living arrangement or drug abuse treatment and education program and other protection designed to ensure the welfare and, when possible, the desires of the patient or resident.

1. When provided with the notice of the execution of the emergency relocation order, the institution, community living arrangement or drug abuse treatment program shall make patient/resident information available to the department in usable formats.

2. The institution, community living arrangement or drug abuse treatment program that is the subject of the emergency relocation order shall not impede in any way the Department's communications with the patients/residents, next of kin or guardians of the patients/residents and attending physicians.

3. The institution, community living arrangement or drug abuse treatment program shall continue to provide care and services to the patients/residents and shall prepare records required by the receiving facility which are necessary to facilitate continuity of patient/resident care for the patients/residents to be relocated.

4. The institution, community living arrangement or drug abuse treatment program shall make any personal property, such as but not limited to patient/resident funds, available to the receiving facility at the time of transfer.

(c) **Emergency Placement of Monitor.** The Commissioner may order the emergency placement of a monitor in an institution community living arrangement or drug abuse treatment program subject to licensure when conditions at the facility require immediate oversight for the safety of the patients or residents.

1. **Conditions.** The placement of a monitor may be required when one or more of the following circumstances are present:

(i) the institution, community living arrangement or drug abuse treatment program is operating without a permit or license;

(ii) the department has denied the application for a permit or a license or has initiated an action to revoke the existing permit or license of the institution, community living arrangement or drug abuse treatment program;

(iii) the institution, community living arrangement or drug abuse treatment program is closing or plans to close and adequate arrangement for the relocation of the patients or residents have not been made at thirty (30) days before the date of closure; or

(iv) the health, safety, security, rights or welfare of the patients or residents cannot be adequately assured by the institution, community living arrangement or drug abuse treatment program. For example, the department is informed that essential service vendors (electricity, gas, water, food or pharmacy) have not been paid and anticipate discontinuing service and the institution, community living arrangement or drug abuse treatment program does not have a signed contract with another vendor establishing that there will be no disruption in service.

2. **Role of Monitor.** The monitor may be placed in the institution, community living arrangement or drug abuse treatment program for no more than ten (10) days during which time the monitor shall observe conditions and compliance with remedial action recommended by the department. The monitor shall not assume any administrative responsibility for the institution, community living arrangement or drug abuse treatment program, nor shall the monitor be liable for any of the actions of the institution, community living arrangement or drug abuse treatment program.

3. **Cost of Monitor.** The institution, community living arrangement or drug abuse treatment program shall pay the costs associated with the placement of the monitor unless the Commissioner's order placing the monitor is determined to be invalid in a contested case proceeding under the Georgia Administrative Procedure Act, Chapter 13 of Title 50.

(d) **Emergency Prohibition of Admissions.** The Commissioner may order the emergency prohibition of admissions to an institution, community living arrangement or drug abuse treatment program when such facility has failed to correct a violation of departmental permit rules within a reasonable period of time, as specified in the department's corrective order, and the violation could either jeopardize the health and safety of the residents/patients if allowed to remain uncorrected or is a repeat violation over a twelve (12) month period, which is intentional or due to gross negligence.

(e) **Emergency Suspension of Admissions.** The Commissioner may order admissions to an institution, community living or drug abuse treatment program, may be suspended until the department has determined that the violation has been corrected or until the department has determined that the facility has undertaken the action necessary to effect correction of the violation.

(f) **Preliminary Hearing.** The institution, community living arrangement or drug abuse treatment program affected by the Commissioner's emergency order, may request that the department hold a preliminary hearing within the department on the validity of the order and the need for its continuation. Such hearing shall occur within ten (10) days following the request.

1. A request for a preliminary hearing shall be made in writing to the representative of the department designated in the emergency order. Unless a request is made to appear in person, the preliminary hearing shall consist of an

administrative review of the record, written evidence submitted by the institution affected, and a preliminary written argument in support of its contentions.

2. If a request is made to appear in person at the preliminary hearing, the following information shall be included in the request, or provided prior to the hearing:

(i) the name and address of person or persons, if any, who will be representing the institution in the preliminary hearing;

(ii) the names and titles of all other persons who will attend the preliminary hearing; and

(iii) any additional evidence the institution wishes to submit for consideration at the hearing.

3. Upon receipt of a request for a preliminary hearing, the department shall set and give notice of the date, time, and location of the preliminary hearing. The preliminary hearing shall be held within ten (10) calendar days of receipt of the request.

4. If a personal appearance is requested, the preliminary hearing shall consist of a review of the evidence in the record; any additional evidence introduced at the hearing; and any arguments made. A sound recording shall be made of the hearing.

5. Within seven (7) calendar days of the close of the preliminary hearing, the department shall render a written decision. The decision shall be divided as follows:

(i) description of additional evidence submitted by the affected institution;

(ii) summary of the arguments and/or brief submitted by the institution in support of its contention that the emergency order is invalid;

(iii) a statement as to whether the emergency order issued by the department is found valid and the reasons therefore; and

(iv) notice of the affected institution's right to obtain an administrative hearing regarding the Commissioner's emergency order pursuant to O.C.G.A. § 50-13-13, if the emergency order is found valid as a result of the department's preliminary hearing.

6. Pending final appeal of the validity of any emergency order issued as provided herein through the administrative hearing process, such emergency order shall remain in full effect until vacated or rescinded by the Commissioner.

(g) **Cumulative Remedy.** The department is not limited to a single emergency action under these rules, nor is the department precluded from other actions permitted by other law or regulations during the time an emergency order is in force.

(4) **Standards for Taking Sanctions.** In taking any of the actions pursuant to subparagraphs (1), (2) or (3) of this rule, the department shall consider the seriousness of the violation or violations, including the circumstances, extent, and gravity of the prohibited act or acts or failure to act, and the hazard or potential hazard created to the physical or emotional health and safety of the public.

(5) **Non-Compliance with Sanctions.** Failure on the part of any facility to abide by any sanction, including payment of a fine, which is finally imposed against it, shall constitute grounds for the imposition of additional sanctions, including revocation.

(6) **Settlements.** With regard to any contested case instituted by the department pursuant to this Chapter or other provisions of law or regulation which may now or hereafter authorize remedial or disciplinary grounds and action, the department may, in its discretion, dispose of the action so instituted by settlement. In such cases, the department, the facility, and those persons deemed by the department to be successors in interest to any settlement agreement,

shall be bound by the terms specified therein. Violation thereof by any applicant or licensee, their agents, employees, or others acting on their behalf, shall constitute grounds for the imposition of any sanctions enumerated in this Chapter, including revocation.

(7) **Sanctions for Nursing Facilities.** With respect to any facility classified as a nursing facility, nursing home, or intermediate care home, the department may not take an action to fine or restrict the license of any such facility based on the same act, occurrence, or omission for which: the facility has received an intermediate sanction under the provisions of 42 U.S.C. § 1396r(h)(2)(A), as amended, or 42 U.S.C. § 1395i - 3(h)(2)(B); or such facility has been served formal notice of intent to take such a sanction which the Division of Medical Assistance, based on administrative review, or any other appropriate body, based on administrative or judicial review, determines not to impose, provided however, that nothing in this subparagraph shall prohibit the department from using the provisions authorized by law in paragraph (5) above.

Cite as Ga. Comp. R. & Regs. R. 111-8-25-.05

AUTHORITY: O.C.G.A. §§ 31-2-8, 31-7-2.2, 31-7-4, 31-7-3.5.

HISTORY: Original Rule entitled "Sanctions" adopted. F. Mar. 17, 2010; eff. Apr. 6, 2010.

Repealed: New Rule entitled "Sanctions" adopted. F. July 14, 2010; eff. August 3, 2010.

Amended: F. Apr. 16, 2021; eff. May 6, 2021.

Amended: F. Sept. 22, 2023; eff. Oct. 12, 2023.

Department 120. OFFICE OF COMMISSIONER OF INSURANCE, SAFETY FIRE COMMISSIONER AND INDUSTRIAL LOAN COMMISSIONER

Chapter 120-2. RULES OF COMMISSIONER OF INSURANCE

Subject 120-2-3. REGULATIONS REGARDING AGENTS, SUBAGENTS, COUNSELORS, ADJUSTERS, SURPLUS LINES BROKERS, AND AGENCIES

120-2-3-.08 Prelicensing Course and Provider Approval

(1) All agent and adjuster prelicensing courses must contain a minimum of twenty (20) hours of instruction per major line of authority; the major lines are

(a) Life;

(b) Accident and Sickness;

(c) Property;

(d) Casualty; and

(e) Personal Lines.

(2) Limited subagent courses must contain a minimum of twenty (20) hours per combination lines of life, accident and sickness or property and casualty.

(3) Navigator prelicensing courses must contain a minimum of ten (10) hours of instruction in health benefit insurance, the state based exchange provision, the medical assistance program provided for by Article 7 of Chapter 4 of Title 49, and the PeachCare for Kids Program provided for by Article 13 of Chapter 5 of Title 49, information pertaining to state licensing laws and any other information which will give the applicant a proficient knowledge of state insurance laws.

(4) Additionally, all prelicensing courses must meet the following standard:

(a) Instructors must have had training or educational experience satisfactory to the Commissioner in order to be certified to teach any part of an approved prelicensing course. Each instructor must have three (3) or more years in insurance work or otherwise qualify with equivalent educational and teaching experience and be approved by the Commissioner prior to teaching any prelicensing course, or any part of any course.

(b) Reference materials such as sample policy forms, manuals, the Georgia Insurance Code, textbooks, Georgia Insurance Department study manuals as appropriate, programmed textual materials, and other illustrative materials are required to be readily available for student use.

(c) All classrooms used shall be rooms separate from other activities while instruction is being given and shall provide comfortable physical facilities for the students. Such classrooms must be properly equipped with sufficient desk or table space to accommodate the number of students taking the course and must contain sufficient teaching aids to facilitate a learning atmosphere for those students.

(d) The subject matter of the prelicensing course must pertain to the category or categories of license for which the applicant has applied or is intending to apply and must include all of the following to such extent as the information applies to the categories of license sought by the applicant:

1. The Georgia Agents' Licensing Study Manual Life and Health, and the Georgia Agents' Licensing Study Manual Property and Casualty;

2. Chapters 5, 6, 7, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 39, 42, 43, 44, 50, and 51 of Title 33 of the Official Code of Georgia Annotated and corresponding regulations;

3. Fundamental needs of various kinds of insurance;

4. Study and analysis of various kinds of policies, endorsements, riders, and other policy contract documents;

5. Study and analysis of various rating plans and systems; and

6. Such additional material as the commissioner may from time to time require by notice to course sponsors.

(e) All prelicensing courses must include O.C.G.A. §§ 33-1-9, 33-1-16 and this Regulation.

(f) If the prelicensing course is conducted in a virtual classroom setting, for example as a web cast or internet based course, system security must be in place to ensure user attendance.

(4) Any person, including but not limited to, colleges and universities, insurers, adult education centers, and associations may seek approval as a provider of prelicensing courses.

(5) Course providers must obtain approval from the Commissioner prior to the beginning of any course. To request approval, the provider shall file with the Commissioner the appropriate required form and pay the appropriate fees, and the following:

(a) An outline of the proposed course, including instructional time for each course major component;

(b) A list of all instructional materials to be used;

(c) A description of the facility to be used as a classroom and a statement that adequate parking facilities are available and that handicap access is provided;

(d) The name or names of the instructors; and

(e) The category or categories of license for which the course is intended to prepare applicants for licensing.

(6) The Commissioner may require further detail of the proposed course content or filing of copies of any instructional materials to be used as are necessary to determine the adequacy of the proposed instruction.

(7) Course providers must provide a listing of examination sites and times to each applicant. The Commissioner will notify all course sponsors of any changes in the information.

(8) Nothing in this Regulation is intended to prohibit any person upon payment of any required fees from taking any prelicensing course whether or not such person has applied for or intends to apply for a license under Chapter 23 of Title 33 of the Official Code of Georgia Annotated.

(9) Course providers must certify to the Commissioner and the student on the appropriate required form, the contact hours completed by each applicant.

(a) The course provider name and instructor name must appear on certification; the instructor must sign such certification.

(b) False certification shall be cause for withdrawal of approval of the course provider or instructor and shall be deemed a violation of Chapter 23 of Title 33 of the Official Code of Georgia Annotated.

(c) The Commissioner may require certification of course completions to be reported electronically. Such reporting must be submitted within fourteen (14) days from course completion.

(10) Instructors may receive the same credit for courses as applicants when their attendance is certified in the same manner as provided in Paragraph (7) of this Section. The approved Instructor shall only receive this credit one time per renewal period regardless of the number of times the instructor conducts the same course.

(11) The Commissioner may review any approved program, instructor or course and may cancel approval of such program, instructor or course with regard to all future offerings. Once a program, instructor or course provider has been canceled, such program, instructor or course provider shall not reapply for approval for a period of five (5) years from the date of cancellation.

(12) If any unapproved providers are found to be offering, certifying, or offering and certifying completions for unapproved courses to applicants for prelicening requirements without having first obtained approval by the Commissioner, the providers shall not apply for approval for a period of five (5) years from the date of notice.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.08

AUTHORITY: O.C.G.A. §§ 33-2-9**,** 33-8-1**,** 33-23-5**,** 33-23-9**,** 33-23-44**,** 33-23-200**,** 33-23-201**,** 33-23-202**,** 33-23-203**,** 33-23-204**,** 33-23-205**.**

HISTORY: Original Rule entitled "One Temporary License" adopted. F. and eff. July 20, 1965.

Repealed: New Rule entitled "Prelicensing Courses" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.

Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.

Amended: F. July 23, 1998; eff. August 12, 1998.

Repealed: New Rule entitled "Prelicensing Course and Provider Approval" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Repealed: New Rule of same title adopted. F. July 16, 2009; eff. August 5, 2009.

Repealed: New Rule of same title adopted. F. Oct. 15, 2013; eff. Nov. 4, 2013.

Amended: F. Sept. 20, 2023; eff. Aug. 1, 2023, as specified by the Agency.

120-2-3-.09 Examinations

(1) All resident applicants required under Chapter 23 of Title 33 of the Official Code of Georgia Annotated shall submit to examination by the Commissioner except:

(a) Applicants for agent licenses in lines or sublines of life or accident and sickness insurance who hold the designation of Chartered Life Underwriter (CLU) or Fellow Life Management Institute (FLMI);

(b) Applicants for agent licenses in lines or sublines of property and casualty who hold the designation of Chartered Property and Casualty Underwriter (CPCU);

(c) Applicants for licenses as counselors who hold the designation of Certified Insurance Counselor (CIC), Accredited Advisor in Insurance (AAI), Registered Employee Benefits Consultant (REBC), CPCU as specified in Rule 120-2-3-.09(1)(b), CLU or FLMI as specified in Rule 120-2-3-.09(1)(a), or applicants deemed by the

Commissioner to have sufficient experience and qualifications in the lines of authority for which the applicant seeks licensure;

(d) Applicants for Limited Health Counselor licensure that have five (5) years' experience licensed as an agent in the line of accident and sickness;

(e) Applicants for Limited Health Counselor licensure that hold the designation of CIC, CLU, FLMI, REBC and Registered Health Underwriter (RHU);

(f) Applicants for limited licenses in accordance with Rules 120-2-3-.29, .31, .32, .39, .44, .45, and .47 of this Regulation Chapter;

(g) Applicants holding a Ph.D. in Risk Management;

(h) Adjusters who are salaried employees of insurers;

(i) Applicants for temporary licenses;

(j) Applicants for credit insurance agent licenses;

(k) Applicants for a workers compensation adjuster license who hold the designation of Certified Workers Compensation Professional (CWCP);

(l) Applicants for adjuster licenses who hold the designation of Universal Claims Certification (UCC);

(m) Such other applicants as the Commissioner may, at his discretion, determine.

(n) The applicant who was previously licensed for the same lines of authority in another state shall not be required to complete any prelicensing education or examination. This exemption is only available if the individual is currently licensed in that state or if the application is received within 90 days of the cancellation of the applicant's previous license. The applicant must have been in good standing with the prior state as evidenced by a certificate of good standing provided by that state and verifiable in the producer data base records maintained by authorized systems.

(2) The passing grade on examinations for licenses shall be seventy percent (70%).

(3) Any person taking an examination for licensing and not receiving a passing grade shall not be entitled to retake the examination until fourteen (14) days have elapsed, and will be required to pay the appropriate fee. A person who fails to pass the examination after taking the exam three (3) times shall not be entitled to retake the examination until sixty (60) days have elapsed, and will be required to pay the appropriate fees.

(4) A person who has not filed an application within twelve (12) months of the date of receiving a passing exam score will be required to retake the examination.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.09

AUTHORITY: O.C.G.A. §§ 33-2-9**,** 33-8-1**,** 33-23-5**,** 33-23-10**,** 33-23-44**.**

HISTORY: Original Rule entitled "Temporary License for One Company Only" adopted. F. and eff. July 20, 1965.

Repealed: New Rule entitled "Examinations" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.

Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.

Amended: F. July 23, 1998; eff. August 12, 1998.

Amended: F. Jan. 14, 2000; eff. Feb. 3, 2000.

Repealed: New Rule of same title adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Amended: F. Aug. 23, 2004; eff. Sept. 12, 2004.

Amended: F. July 16, 2009; eff. August 5, 2009.

Amended: ER. 120-2-3-.24 -.09 adopted. F. Jun. 12, 2012; eff. Jun. 12, 2012, as specified by the Agency.

Repealed: New rule with same title adopted. F. Sept. 10, 2012; eff. Sept. 30, 2012.

Amended: F. Apr. 16, 2014; eff. May 6, 2014.

Amended: F. June 6, 2016; eff. August 1, 2016, as specified by the Agency.

Amended: F. Aug. 8, 2018; eff. Aug. 28, 2018.

Amended: F. Jan. 13, 2022; eff. Jan. 1, 2022, as specified by the Agency.

Amended: F. Sept. 20, 2023; eff. Aug. 1, 2023, as specified by the Agency.

120-2-3-.12 Continuing Education Courses Approval

(1) Considerations for course qualification and approval shall be based on improving the student's knowledge in the insurance areas in which the student is licensed.

(a) The overriding consideration in determining whether a course qualifies as acceptable continuing education is that it be a formal program of learning which contributes directly to the professional or technical competence of a licensed individual. Sales, motivational, self-improvement, telephone techniques, office techniques (except to the extent of improving service to the public when combined with other eligible instruction), election of officers, installation of officers, attendance at conventions and other similar activities, programs, or courses will not be approved.

(b) Courses must be related directly to the types of insurance business or accounts for which a continuation of licenses is sought. In general, subjects would be acceptable if they contribute to the technical competence of the individual person in the capacity for which such person is licensed.

(c) The training required under 120-2-3-.15(2)(f) shall consist of topics related to long term care insurance, long term care services and qualified state long term care insurance Partnership programs under Rule 120-2-16-.34(5), including but not limited to

1. State and federal regulations and requirements and the relationship between qualified state long term care insurance Partnership programs and other public and private coverage of long term care services, including Medicaid;

2. Available long term services and providers;

3. Changes or improvements in long term care services or providers;

4. Alternatives to the purchase of private long term care insurance;

5. The effect of inflation on benefits and the importance of inflation protection;

6. Consumer suitability standards and guidelines;

7. Said course must contain a minimum of two (2) hours instruction covering Georgia Medicaid provisions.

(d) The training required under 120-2-3-.15(2)(g) can be approved to be delivered as a classroom course or self-study; the course shall not include any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products; the training required shall consist of topics related to annuities and annuity suitability and must include the following:

1. The types of annuities and various classifications of annuities;

2. Identification of the parties to an annuity;

3. How fixed, variable and indexed annuity contract provisions affect consumers;

4. The application of income taxation of qualified and non-qualified annuities;

5. The primary uses of annuities; and

6. Appropriate sales practices, replacement and disclosure requirements.

(2) The general requirements for course or program conduct shall be:

(a) An outline of the program must be prepared by the program director or instructor and provided to each student;

(b) The program must be conducted by a person whose formal training and experience qualify such person as an instructor;

(c) Hours of continuing education credit earned shall be calculated in full hours only;

(d) Throughout the entire program, the program provider and the licensee must maintain a record of registration and attendance;

(e) Such courses or program must be filed with the Commissioner at least forty-five (45) days in advance of the date when such approval is desired;

(f) Credit will be given for contact hours only, except:

1. University or college credit courses - each semester credit hour shall equal three (3) hours toward the requirement, each quarter hour shall equal two (2) hours;

2. Noncredit courses from a college or university - each classroom hour shall be deemed to be one hour of continuing education.

(g) Correspondence or other individual study courses (including taped study courses) will qualify if they:

1. Have received the prior approval of the Commissioner;

2. Require registration; and

3. Certify satisfactory completion, including a proctored final examination.

(h) If any scheduled course is to be cancelled by the provider, the provider must notify the Department and all registrants at least 10 days prior to the previously scheduled start of the course provided. This restriction shall not apply if, at the time of registration, the provider notifies registrants in writing that the class is subject to cancellation and registrants are notified of the cancellation a reasonable time in advance of the scheduled start of the course.

(3) The course filing requirements are:

(a) Continuing education sponsors must complete the appropriate form, pay the required fees, and must submit those items required in Rules 120-2-3-.08(3) and (4);

(b) The Commissioner, at his discretion, may verify the information submitted by the instructor or course provider. The Commissioner may review any approved instructor or course and may cancel approval of such instructor or course with regard to all future offerings. Once a instructor or course provider has been canceled, such instructor or course provider shall not reapply for approval for a period of five (5) years from the date of the cancellation.

(4) For courses or seminars offered in Georgia, the person, group, association, or institution making such courses available would be the continuing education provider, seeking its approval for continuing education purposes, and monitoring and certifying students' performance or attendance.

(5) For out-of-state courses or seminars offered by regional or national professional associations or societies, the national professional association may assume the role of sponsor. However, local or state chapters or affiliates of the national professional association may, through their local offices, assume the role of Georgia provider of the national course or seminar, seeking course approval for continuing education purposes and monitoring and certifying students' performance and attendance.

(6) The following standards will be used to measure the hours of credit to be given for acceptable continuing education courses completed by any individual:

(a) Courses requiring class attendance:

1. All courses will be measured in terms of contact hours. The shortest recognized course will consist of one (1) contact hour. A contact hour is fifty (50) minutes of continuous participation in a course. Under this standard, credit is granted only for full contact hours. For example, a course lasting between fifty (50) and one hundred (100) minutes would count for only one (1) hour.

2. For continuous courses, when individual segments are less than fifty (50) minutes, the sum of the segments should be considered one (1) total course.

3. Program providers must monitor group programs in order to accurately assign the appropriate number of credit hours for participants who arrive late or leave before a program is completed.

4. Credit will be allowed for a question and answer period at the rate of fifty percent (50%) of the number of minutes devoted to questions and answers. Credit will not be allowed for introductions, announcements or other such activity which may be a part of the program.

5. Only hours in class, or the equivalent, will be counted. No credit will be allowed for time devoted to preparation.

6. Each semester hour of credit from a college or university shall be deemed to be three (3) hours of continuing education credit, and each quarter hour of credit shall be deemed to be two (2) hours of continuing education credit.

7. Each classroom hour of noncredit courses from a college or university shall be counted as one (1) hour of continuing professional education.

(b) Correspondence and other individual study courses:

1. In determining the amount of credit to be allowed for specific correspondence and individual study courses, each course provider must certify the hours of study, on the average, required to complete a course successfully. Credit will be given for fifty percent (50%) of hours so certified upon certification of successful completion.

2. Successful completion must include a proctored final examination.

3. Credit will be allowed in the renewal period in which the course is completed.

(7) A program provider may request that its materials furnished for certification be kept confidential on the grounds that they are of a proprietary nature and intended only for program attendees, its agents or employees. The Commissioner or his designee will promptly review and return such materials.

(8) Course providers must certify contact hours to the Commissioner electronically or by means prescribed by the Commissioner. Such reporting must be submitted within fourteen (14) days from course completion. Failure to do so may result in administrative action taken against the provider. Course providers must provide certification to each person taking the course in the same manner as provided in Rule 120-2-3-.08(7).

(9) Instructors may receive the same credit for courses as applicants when their attendance is certified as provided in Paragraph (8) of this Section.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.12

AUTHORITY: O.C.G.A. §§ 33-2-9**,** 33-8-1**,** 33-23-8**,** 33-23-18**,** 33-23-44**,** 33-42-6**,** 33-42-7**.**

HISTORY: Original Rule entitled "Continuing Education" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.

Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.

Repealed: New Rule entitled "Continuing Education Courses and Provider Approval" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Amended: F. July 16, 2009; eff. August 5, 2009.

Amended: F. Sept. 21, 2015; eff. Mar. 1, 2016, as specified by the Agency.

Amended: New title, "Continuing Education Courses Approval." F. Sept. 20, 2023; eff. Aug. 1, 2023, as specified by the Agency.

120-2-3-.13 Renewal of Educational and Providers

(1) All approved educational providers must file a renewal application and pay the required fees on or before October 1 of each year.

(2) Approval is hereby withdrawn without further notice for any provider not renewing as required in paragraph (1). Failure to renew will result in the cancellation of all educational providers and courses.

(3) All approved education instructors must file for renewal and pay the required fees biannually on or before December 31 of odd number years. The first renewal date is December 31, 2023.

(4) All courses must file for renewal and pay the required fees biannually by the last day of the original approval date. All courses are eligible to be renewed two times. In the seventh year of the course, the provider shall be required to apply for approval of the course to be offered.

(a) All courses approved prior to January 1, 2018, are not eligible for renewal and will be inactivated on December 31, 2023. Providers must apply for approval of the course to be offered.

(b) All courses that were approved in 2018 will remain active until the last day of the approved month in 2024. These courses will not be eligible for renewal and to be continued to be offered, the provider must apply for approval.

(c) All courses that were approved in 2019 will remain active until the last day of the approved month in 2025. These courses will not be eligible for renewal and to be continued to be offered, the provider must apply for approval.

(d) All courses that were approved in 2020 will remain active until the last day of the approved month in 2026. These courses will be eligible for renewal.

(e) All courses that were approved in 2021 will remain active until the last day of the approved month in 2027. These courses will be eligible for renewal.

(f) All courses that were approved in 2022 will remain active until the last day of the approved month in 2024. These courses will be eligible for two renewals.

(g) All courses that were approved in 2023 will remain active until the last day of the approved month in 2025. These courses will be eligible for two renewals.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.13

AUTHORITY: O.C.G.A. §§ 33-2-9**,** 33-8-1**,** 33-23-18**,** 33-23-44**.**

HISTORY: Original Rule entitled "Refiling of Existing Educational Courses; New Application for Sponsors and Instructors: Renewals" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.

Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.

Repealed: New Rule entitled "Renewal of Educational Providers and Instructors" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Amended: New title, "Renewal of Educational and Providers." F. Sept. 20, 2023; eff. Aug. 1, 2023, as specified by the Agency.

120-2-3-.14 Resident Agent Personal Lines License

(1) In order to be eligible for a resident agent personal lines license in accordance with Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation, the applicant must make proper application to the Commissioner and pay all required fees.

(2) New applicants, excluding active licensees and individuals that apply for reinstatement within 6 months of expiration date, shall be required to submit electronic fingerprints through a vendor selected by the Department for a criminal background check. The applicant shall bear the cost for electronic fingerprinting.

(3) The resident agent applicant must complete an approved prelicensing course in personal lines unless specifically exempted by Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation. All prelicensing courses must contain a minimum of twenty (20) hours of instruction. The applicant must pass the required examination for licensure within 12 months of the completion of the prelicensing course. All applicants must apply for licensure within 12 months from receiving a passing grade on the examination.

(4) Exceptions to prelicensing course requirement:

(a) Applicants who hold a designation of Chartered Property and Casualty Underwriter (CPCU);

(b) Applicants who qualify for exemption under O.C.G.A. §§ 33-23-5(a)(5)(A) and 33-235(a)(5)(B);

(c) Applicants for temporary licenses;

(d) Applicants who provide satisfactory evidence such as a transcript from a college or university indicating successful completion of two (2) college or university courses related to insurance. Such courses must relate to the lines of authority for which the Applicant has applied;

(e) Applicants who hold college degrees in insurance;

(f) Other applicants at the Commissioner's discretion.

(5) All continuing education requirements as outlined in Rule 120-2-3-.15 and all renewal requirements as outlined in Rule 120-2-3-.16 apply to personal lines licenses.

(6) Upon issuance of the agent license, the licensee must obtain a certificate of authority from each insurer that they will represent.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.14

AUTHORITY: O.C.G.A. §§ 33-2-9**,** 33-8-1**,** 33-23-5**,** 33-23-5.1**,** 33-23-8**,** 33-23-10**,** 33-23-12**,** 33-23-44**.**

HISTORY: Original Rule entitled "Existing License - Provision for Transition" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.

Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.

Repealed: New Rule entitled "Resident Agent Personal Lines License" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Repealed: New Rule of same title adopted. F. July 16, 2009; eff. August 5, 2009.

Amended: F. Jan. 13, 2022; eff. Jan. 1, 2022, as specified by the Agency.

Amended: F. Sept. 20, 2023; eff. Aug. 1, 2023, as specified by the Agency.

120-2-3-.15 Resident Continuing Education Requirements

(1) Each resident licensee licensed for less than 20 years must complete a minimum of twenty four (24) continuing education hours, three (3) of which must be completed in Ethics, by the dates specified in Rule 120-2-3-.16. For resident licensees continually licensed for 20 years or longer, a minimum of twenty (20) continuing education hours, three (3) of which must be completed in Ethics, by the dates specified in Rule 120-2-3-.16. The continuing education hours may be completed at any time during the current biennial license period as long as the hours are completed prior to the license expiration date.

(2) Continuing education hours may be completed in any subject area for which he or she is licensed, provided licensees complete a minimum of three (3) hours of their continuing education requirement in the subject area of Ethics biennially. The Ethics requirement may be satisfied by completing courses in the subject area of Ethical practices, Legislative updates or Federal or Departmental Regulatory changes in insurance, current issues and other such topics that the Commissioner may at his or her discretion approve.

(a) Credit Insurance Exception. For any person holding a multiple line license where one of the lines is Credit insurance, no more than five (5) hours may be applied for Credit insurance self-study. The remainder of the continuing education requirement must come from the other lines of insurance. If licensed for credit insurance only, the Ethics course requirement does not apply.

(b) Limited Subagent Exception. For any person holding multiple license types, where one of the licenses is for a Limited Subagent, no more than five (5) hours of continuing education credit may be applied for the subject area that coincides with the Limited Subagent license. The remainder of the continuing education requirement must come from the lines of insurance held under the agent, adjuster or counselor license. If licensed only as a Limited Subagent, the Ethics course requirement does not apply.

(c) Workers' Compensation Adjuster Exception. Licensee may either complete 10 hours of approved continuing education courses through the State Workers' Compensation Board; or complete the normal continuing education requirement specifically in the lines of property and casualty. If licensed as a workers' compensation adjuster only, the ethics requirement does not apply. After conversion to a biennial license, each resident licensee must complete

twenty (20) hours of approved continuing education courses through the State Workers' Compensation Board or complete the normal continuing education requirement specifically in the lines of property and casualty, by the dates specified in Rule 120-2-3-.16.

(d) Persons newly licensed prior to July 1, 2012. Newly licensed persons who have taken the required prelicensing course will be considered to have met the initial requirements for continuing education by filing a copy of the prelicensing course certificate with the required renewal form. This exemption only applies to continuing education requirements for the first year of licensure for those who obtained their license prior to July 1, 2012.

(e) Agents licensed in the property line of authority that will be selling through the National Flood Insurance Program (NFIP) must complete a one-time three (3) hour continuing education course related to NFIP. This three (3) hour course will count towards the agent's continuing education requirement and can be used toward the Ethics requirement.

(f) On or after January 1, 2009, an Agent may not sell, solicit or negotiate a long term care partnership policy unless the individual has completed an initial eight (8) hour long term care training course. Agent must also complete ongoing training consisting of a four (4) hour continuing education course every 24 months. Such training must meet the requirements as outlined in Section 120-2-3-.12. To meet the 24-month timing requirements, an agent must complete this long term care continuing education course during each biennial license cycle required of all other continuing education requirements as set out in Section 120-2-3-.16 measured from the date of completion of the agent's initial eight (8) hour long term care training course.

1. Resident agents that have taken another state's qualified long term care partnership course may receive credit for up to six (6) hours toward the Georgia partnership training course requirement. Such resident agent must complete an approved two (2) hour Georgia specific Medicaid course in order to meet the eight (8) hour training requirement.

2. Insurers offering a long term care partnership policy shall obtain verification that an agent has received the training required in 120-2-3-.12(1)(c) and this section before the agent is permitted to sell, solicit or negotiate the insurer's long term care partnership policy.

3. Each insurer shall maintain records with respect to the training of its agents qualified to sell, solicit or negotiate long term care partnership policies, to include training received and that the agent has demonstrated an understanding of the partnership policies and their relationship to public and private coverage of long term care, including Medicaid. These records shall be maintained for a period of not less than five years and shall be made available to the Commissioner upon request.

(g) On or after March 1, 2016, an Agent may not sell, solicit or negotiate an annuity product unless the individual has completed a one-time four (4) hour Annuity Suitability continuing education course approved by the department of insurance and provided by a department approved education provider.

1. Insurance producers who hold a life insurance line of authority on the effective date of this regulation and who desire to sell annuities shall complete the requirements of this subsection within six (6) months after the effective date of this regulation.

2. Individuals who obtain a life insurance line of authority on or after the effective date of this regulation may not engage in the sale of annuities until the annuity training course required under this subsection has been completed.

3. The satisfaction of the training requirements of another State that are substantially similar to the provisions of this subsection shall be deemed to satisfy the training requirements of this subsection in this State.

4. An insurer shall verify that an insurance producer has completed the annuity training course required under 120-2-3-.12(1)(d) and this subsection before allowing the producer to sell an annuity product for that insurer. An insurer may satisfy its responsibility under this subsection by obtaining certificates of completion of the training course or obtaining reports provided by Commissioner-sponsored database systems or vendors or from a reasonably reliable commercial database vendor that has a reporting arrangement with approved insurance education providers.

(3) Following the initial reporting date for new licensees, each person shall report on the date specified in Rule 120-2-3-.16 of this Regulation the appropriate number of hours for the previous reporting period.

(4) Credit will not be given for the same Continuing Education course taken multiple times within the same Continuing Education reporting period.

(5) Credit for continuing education earned in one filing period in excess of the hours required may be carried forward to the next filing period, provided that credit carried forward shall not exceed fifty percent (50%) of biennial continuing education requirement.

(6) Credit hours issued for Ethics in excess of the requirement may be carried forward to the next renewal period and applied toward the hours for subject areas for lines of authority held. Ethics credit hours may only be applied to the Ethics requirement during the renewal period taken.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.15

AUTHORITY: O.C.G.A. §§ 33-2-9**,** 33-23-12**,** 33-23-15**,** 33-23-18**,** 33-23-44**,** 33-42-6**,** 33-42-7**.**

HISTORY: Original Rule entitled "Continuing Education Hours Required" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.

Amended: Rule retitled "Continuing Education Requirements". F. Aug. 9, 1996; eff. Aug. 29, 1996.

Amended: F. July 23, 1998; eff. August 12, 1998.

Amended: F. Jan. 14, 2000; eff. Feb. 3, 2000.

Repealed: New Rule entitled "Resident Continuing Education Requirements" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Amended: F. July 16, 2009; eff. August 5, 2009.

Repealed: New Emergency Rule adopted. F. Jun. 28, 2012; eff. Jun. 28, 2012, as specified by the agency.

Repealed: New Rule of same title adopted. F. Sept. 10, 2012; eff. Sept. 30, 2012.

Amended: F. Apr. 16, 2014; eff. May 6, 2014.

Amended: F. Sept. 21, 2015; eff. Mar. 1, 2016, as specified by the Agency.

Amended: F. Sept. 20, 2023; eff. Aug. 1, 2023, as specified by the Agency.

120-2-3-.16 Dates for Resident License Renewal and Required Filing of Continuing Education Credits

(1) license renewals and appropriate fees will be due on the last day of the licensee's birth month;

(a) Licensee may file a late renewal with appropriate late fee within 15 days of the last day of the licensee's birth month;

(b) Failure to file the required license renewal form along with the appropriate fee shall result in the expiration of the license as of the last day of the licensee's birth month for the renewal year.

(2) Failure to file the complete and correct renewal with required attachments and/or evidence of completion of required continuing education by the required filing date will result in a penalty being assessed when licensee applies for late renewal reinstatement.

(a) The reinstatement penalty assessed will be $150; this penalty is in addition to any required renewal and late fees. The penalty and required fees are to be paid at the time of submission of late renewal reinstatement.

(b) If late renewal reinstatement is received 6 or more months after the expiration date, the licensee is required to submit electronic fingerprints in addition to the $150 penalty and required renewal and late fees.

(3) If an individual fails to file for late renewal reinstatement prior to one (1) year from the license expiration date, the licensee will be required to reapply for the license and satisfy all prelicensing requirements.

(4) A licensed insurance producer who is unable to comply with license renewal procedures due to military service may request a waiver of those procedures. The producer may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with renewal procedures.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.16

AUTHORITY: O.C.G.A. §§ 33-2-9**,** 33-23-5**,** 33-23-18**,** 33-23-21**,** 33-23-44**.**

HISTORY: Original Rule entitled "Dates for Required Filing of Continuing Education Credits" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.

Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.

Repealed: New Rule entitled "Dates for Resident License Renewal and Required Filing of Continuing Education Credits" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Repealed: New Rule of same title adopted. F. Aug. 23, 2004; eff. Sept. 12, 2004.

Amended: F. July 16, 2009; eff. August 5, 2009.

Repealed: New Emergency Rule adopted. F. Jun. 28, 2012; eff. Jun. 28, 2012, as specified by the agency.

Repealed: New Rule of same title adopted. F. Sept. 10, 2012; eff. Sept. 30, 2012.

Amended: F. Apr. 1, 2013; eff. Apr. 21, 2013.

Amended: F. Jan. 13, 2022; eff. Jan. 1, 2022, as specified by the Agency.

Amended: F. Sept. 20, 2023; eff. Aug. 1, 2023, as specified by the Agency.

120-2-3-.18 Resident Bond Requirements

(1) Bonds are required of resident licensees in the following amounts:

(a) Public adjuster, $5,000;

(b) Insurance counselor and Limited Health Counselor, $5,000;

(c) Surplus lines broker, $50,000.

(2) Bonds shall be in favor of the Commissioner and shall be contingent upon:

(a) Proper accounting for any monies;

(b) Proper reporting to any principal;

(c) Payment to the Commissioner of any fees or administrative fines.

(3) Bonds shall be continuous in nature.

(4) Release of any bond shall be contingent upon:

(a) Expiration of five (5) years following the termination of the license requiring such bond; or

(b) Replacement of the bond by another bond which covers any unreported acts or claims occurring during the term of the bond so replaced.

(5) Failure to maintain the bond required above will result in the cancellation of the said license.

(6) The Commissioner may prescribe the form of any bond required.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.18

AUTHORITY: O.C.G.A. §§ 33-2-9**,** 33-23-6**,** 33-23-7**,** 33-23-37**,** 33-23-44**.**

HISTORY: Original Rule entitled "Bond Requirements" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.

Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.

Repealed: New Rule entitled "Resident Bond Requirements" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Amended: ER. 120-2-3-.24 -.18 adopted. F. Jun. 12, 2012; eff. Jun. 12, 2012, as specified by the Agency.

Repealed: New rule with same title adopted. F. Sept. 10, 2012; eff. Sept. 30, 2012.

Amended: F. June 6, 2016; eff. August 1, 2016, as specified by the Agency.

Amended: F. Sept. 20, 2023; eff. Aug. 1, 2023, as specified by the Agency.

120-2-3-.19 Exemptions or Reductions in Requirements for Continuing Education

(1) On approval of the Commissioner, licensees with professional designations in insurance may receive a reduction or exemption from continuing education requirements provided:

(a) The organization sponsoring or granting the professional designation requests such exemption in writing setting forth the continuing education requirements for such designation;

(b) The holder of such designation provides proof of exemption with the Commissioner on or before the date required for filing continuing education credits;

(c) Such exemption or reduction shall only be to the extent of contact hours of continuing education received; and

(d) Exemption or reduction claimed under this Section may be subject to verification by the Commissioner.

(2) Any organization requesting an exemption under Subparagraph (1)(a) of this section must notify the Commissioner in writing within thirty (30) days of any change in its continuing education requirements.

(3) Upon filing the required form on or before the date required for filing continuing education credits with the Commissioner, and at the discretion of the Commissioner, any licensee may receive a reduction or exemption in

continuing education hours required to the extent of the time spent on insurance related activities during the previous year. Such activity shall include, but not be limited to, the following related or occupational duties:

(a) Teaching courses in insurance related topics; or

(b) Insurance related legislative activities; or

(c) Journalism activities involving insurance related topics; or

(d) Projects involving research of insurance laws and regulations; or

(e) Active participation in professional insurance associations. Active members are eligible for a maximum of 3 hours subject to verification from association.

(4) Licensees with the professional designation of CPCU, CLU, Fellow Life Management Institute (FLMI), CIC, Certified Employee Benefit Specialist (CEBS), Chartered Financial Consultant (ChFC), Accredited Advisor in Insurance (AAI), Certified Financial Planner (CFP), CRM, CISR or a major BBA in Risk Management and Insurance from an accredited college will receive a reduction of continuing education hours required. To claim this reduction in continuing education hours, the licensee must attach documentation of achieving such designation. Licensees with these designations are required to complete twelve (12) hours of continuing education with a minimum of three (3) hours to be completed in Ethics each renewal period. Hours must be completed by the dates specified in Rule 120-2-3-.16.

(5) Licensees with the professional designation of Universal Claims Certification (UCC) will be exempt from all continuing education required of adjusters.

(6) Licensees with a non-resident license who are required to meet continuing education in their state of residence will be considered in compliance with the continuing education requirements under this chapter, provided the non-resident licensee's home state reciprocates with Georgia licensees in the same manner.

(7) Agents holding a nonactive license as provided in O.C.G.A. §§ 33-23-4(f) and 33-23-18(e) are exempt from Continuing Education requirements provided:

(a) The holder of such license files for renewal on or before the date required.

(b) Such exemption shall only be valid during the period the license is nonactive.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.19

AUTHORITY: O.C.G.A. §§ 33-2-9**,** 33-23-4**,** 33-23-6**,** 33-23-16**,** 33-23-18**,** 33-23-44**.**

HISTORY: Original Rule entitled "Exemptions or Reductions in Requirements for Continuing Education" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.

Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.

Repealed: New Rule of same title adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Amended: F. July 16, 2009; eff. August 5, 2009.

Repealed: New Emergency Rule adopted. F. Jun. 28, 2012; eff. Jun. 28, 2012, as specified by the agency.

Repealed: New Rule of same title adopted. F. Sept. 10, 2012; eff. Sept. 30, 2012.

Amended: F. Apr. 16, 2014; eff. May 6, 2014.

Amended: F. Aug. 8, 2018; eff. Aug. 28, 2018.

Amended: F. Sept. 20, 2023; eff. Aug. 1, 2023, as specified by the Agency.

120-2-3-.20 Resident Surplus Lines Brokers

(1) In order to be eligible for a resident surplus lines broker license in accordance with Chapters 5 and 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation, the applicant must make proper application to the Commissioner and pay all required fees.

(2) The applicant must be a licensed resident agent for property and casualty insurance. Failure to maintain a current property and casualty agent's license will result in the cancellation of the surplus lines broker license.

(3) The applicant must include with application a surplus lines broker bond in accordance with Rule 120-2-3-.18.

(4) The applicant must pass the required surplus lines examination and apply for licensure within 12 months from receiving the passing grade. Exceptions to the examination requirement will be made in the following circumstances:

(a) An applicant who was previously licensed as a surplus lines broker in another state shall be exempt from the surplus lines examination. This exemption is only available if the individual is currently licensed in that state or if the application is received within 90 days of the cancellation of the applicant's previous license. The applicant must have been in good standing with the prior state as evidenced by a certificate of good standing provided by that state and verifiable in the producer data base records maintained by authorized systems.

(b) An applicant with designation of CPCU shall be exempt from the surplus lines examination.

(5) All continuing education requirements as outlined in Rule 120-2-3-.15 and all renewal requirements as outlined in Rule 120-2-3-.16 apply.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.20

AUTHORITY: O.C.G.A §§ 33-2-9**,** 33-8-1**,** 33-23-26**,** 33-23-37**,** 33-23-44**.**

HISTORY: Original Rule entitled "Dates for Filing Certificates of Authority" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.

Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.

Repealed: New Rule entitled "Resident Surplus Lines Brokers" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Amended: F. Sept. 20, 2023; eff. Aug. 1, 2023, as specified by the Agency.

120-2-3-.25 Resident Adjusters, Public Adjusters, Workers Compensation Adjusters, Crop Hail Adjusters and Emergency Disaster Adjusters

(1) Adjuster:

(a) Effective July 1, 2002, all licensees who currently hold an adjusting company adjuster or an independent adjuster license will be issued an adjuster license in lieu of their current license. All continuing education requirements as outlined in Rule 120-2-3-.15 and all renewal requirements as outlined in Rule 120-2-3-.16 continue to apply after July 1, 2002.

(b) In order for all other resident applicants to be eligible for an adjuster license in accordance with Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation, the applicant must make proper application to the Commissioner and pay all required fees.

(c) Effective January 1, 2010, all new applicants, excluding active licensees and individuals that apply for reinstatement within 6 months of expiration date, shall be required to submit electronic fingerprints through a vendor selected by the Department for a criminal background check. The applicant shall bear the cost for electronic fingerprinting.

(d) The resident adjuster applicant must complete an approved Prelicensing course in property and casualty unless specifically exempted by Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation. All prelicensing courses must contain a minimum of twenty (20) hours of instruction per major line of authority. The applicant must pass the required examination for licensure within 12 months of the completion of the prelicensing course. All applicants must pass the required adjuster examination and apply for licensure within 12 months from receiving a passing grade on the examination. Applicants are exempt from the examination requirement if they qualify for the exemption outlined in Rule 120-2-3-.09(1)(k) or hold either the designation of Chartered Property and Casualty Underwriter (CPCU) or Universal Claims Certification (UCC).

(e) All continuing education requirements as outlined in Rule 120-2-3-.15 and all renewal requirements as outlined in Rule 120-2-3-.16 apply to adjuster licensees.

(f) Exceptions to prelicensing course:

1. Applicants with a designation of CPCU or UCC;

2. Applicants who qualify for exemption under O.C.G.A. §§ 33-23-5(a)(5)(A) and 33-23-5(a)(5)(B);

3. Applicants who provide satisfactory evidence such as a transcript from a college or university indicating successful completion of two (2) college or university courses related to insurance. Such courses must relate to the lines of authority for which the Applicant has applied;

4. Applicants with college degrees in insurance;

5. Other applicants at the Commissioner's discretion.

(2) Public adjuster:

(a) To be eligible for a resident public adjuster license in accordance with Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation, the applicant must make proper application to the Commissioner and pay all required fees.

(b) Effective January 1, 2010, all new applicants, excluding active licensees and individuals that apply for reinstatement within 6 months of expiration date, shall be required to submit electronic fingerprints through a vendor selected by the Department for a criminal background check. The applicant shall bear the cost for electronic fingerprinting.

(c) The resident public adjuster applicant must complete an approved prelicensing course in property and casualty unless specifically exempted by Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation. All prelicensing courses must contain a minimum of twenty (20) hours of instruction per major line of authority. The applicant must pass the required examination for licensure within 12 months of the completion of the prelicensing course. All applicants must pass the required public adjuster examination and apply for licensure within 12 months from receiving a passing grade on the examination. Applicants are exempt from the examination requirement if they qualify for the exemption outlined in Rule 120-2-3-.09(1)(k) or hold the designation of CPCU.

(d) All continuing education requirements as outlined in Rule 120-2-3-.15 and all renewal requirements as outlined in Rule 120-2-3-.16 apply to public adjusters.

(e) The applicant must include with his/her application a public adjuster bond in accordance with Rule 120-2-3-.18.

(f) Exceptions to prelicensing course:

1. Applicants with a designation of CPCU;

2. Applicants who qualify for exemption under O.C.G.A. §§ 33-23-5(a)(5)(A) and 33-23-5(a)(5)(B);

3. Applicants who provide satisfactory evidence such as a transcript from a college or university indicating successful completion of two (2) college or university courses related to insurance. Such courses must relate to the lines of authority for which the Applicant has applied;

4. Applicants with college degrees in insurance;

5. Other applicants at the Commissioner's discretion.

(3) Workers' Compensation adjuster:

(a) To be eligible for a resident workers' compensation adjuster license in accordance with Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation, the applicant must make proper application to the Commissioner and pay all required fees.

(b) Applicants must hold and submit proof of the designation of CWCP, CPCU, or UCC, or qualify under Rule 120-2-3-.09(1)(k).

(c) Effective January 1, 2010, all new applicants, excluding active licensees and individuals that apply for reinstatement within 6 months of expiration date, shall be required to submit electronic fingerprints through a vendor selected by the Department for a criminal background check. The applicant shall bear the cost for electronic fingerprinting.

(d) All continuing education requirements as outlined in Rule 120-2-3-.15(2)(c) and all renewal requirements as outlined in Rule 120-2-3-.16 apply to workers' compensation adjusters.

(4) Crop Hail adjuster:

(a) To be eligible for a resident crop hail adjuster license in accordance with Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation, the applicant must make proper application to the Commissioner and pay all required fees.

(b) All applicants must complete an approved proficiency testing program. Applicants are exempt from the proficiency testing program requirements if they qualify for the exemption outlined in Rule 120-2-3-.09(1)(k) or hold either the designation of CPCU or UCC.

(c) Effective January 1, 2010, all new applicants, excluding active licensees and individuals that apply for reinstatement within 6 months of expiration date, shall be required to submit electronic fingerprints through a vendor selected by the Department for a criminal background check. The applicant shall bear the cost for electronic fingerprinting.

(d) All continuing education requirements as outlined in Rule 120-2-3-.15 and all renewal requirements as outlined in Rule 120-2-3-.16 apply to crop hail adjusters.

(5) Emergency Disaster adjuster:

(a) In the event of a Georgia Emergency Management Authority (GEMA) declared disaster or catastrophe, the insurer will be required to electronically file with the Department a list of non-licensed salaried staff adjusters and

out of state licensees that will handle claims relating to the catastrophe/disaster. Upon proper filing, Disaster Re-entry Permits will be assigned to each insurer. These re-entry permits are to be temporarily assigned to each adjuster for a period not to exceed 60 days.

(b) The Insurer's electronic emergency adjuster filing must include information regarding its adjuster Coordinator. The filing must include the adjuster coordinator's name, address, e-mail address, phone and fax number, as well as any additional information the Commissioner deems necessary. The adjuster coordinator will be responsible for the emergency disaster adjuster filings and assignment of the re-entry permits.

(c) In the event of a non-GEMA declared disaster, nonresident adjusters licensed in another state may enter Georgia for a period not to exceed 60 days. The adjuster must notify the Department prior to entry into this state. Such notification must include the adjuster's name, address, date of anticipated entry into this state and any other information that the Commissioner deems necessary to complete the filing. If the adjuster will be in this state for a period exceeding 60 days, the individual must apply for adjuster licensure.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.25

AUTHORITY: O.C.G.A. §§ 33-2-9**,** 33-8-1**,** 33-23-1**,** 33-23-5**,** 33-23-5.1**,** 33-23-6**,** 33-23-8**,** 33-23-10**,** 33-23-15**,** 33-23-18**,** 33-23-29**,** 33-23-44**.**

HISTORY: Original Rule entitled "Adjuster - Temporary Emergency Work" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.

Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.

Repealed: New Rule entitled "Resident Adjusters, Public Adjusters, Workers' Compensation Adjusters, and Crop Hail Adjusters" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Repealed: New Rule entitled "Resident Adjusters, Public Adjusters, Workers Compensation Adjusters, Crop Hail Adjusters and Emergency Disaster Adjusters" adopted. F. July 16, 2009; eff. August 5, 2009.

Amended: F. Apr. 1, 2013; eff. Apr. 21, 2013.

Amended: F. Aug. 8, 2018; eff. Aug. 28, 2018.

Amended: F. Sept. 20, 2023; eff. Aug. 1, 2023, as specified by the Agency.

120-2-3-.28 Resident Counselors

(1) In order to be eligible for a resident counselor license in accordance with Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation, the applicant must make proper application to the Commissioner and pay all required fees.

(2) Effective January 1, 2010, all new applicants, excluding active licensees and individuals that apply for reinstatement within 6 months of expiration date, shall be required to submit electronic fingerprints through a vendor selected by the Department for a criminal background check. The applicant shall bear the cost for electronic fingerprinting.

(3) The applicant must have 5 years of experience as a licensed agent, subagent or adjuster or in some other phase of the insurance business or provide evidence of sufficient teaching, educational qualifications and or experience in the lines of authority for which applicant seeks licensure as a counselor.

(4) The applicant must include with the application a counselor bond in accordance with Rule 120-2-3-.18.

(5) The Applicant must pass the required counselor examination and apply for licensure within 12 months from receiving the passing grade. Exceptions to the experience requirement and examination requirement will be made in the following circumstances:

(a) An applicant who was previously licensed as a counselor in another state shall be exempt from the examination. This exemption is only available if the individual is currently licensed in that state or if the application is received within 90 days of the cancellation of the applicant's previous license. The applicant must have been in good standing with the prior state as evidenced by a certificate of good standing provided by that state and verifiable in the producer data base records maintained by authorized systems.

(b) An applicant with the designation of CPCU or AAI shall be exempt from the property and casualty counselor examination.

(c) An applicant with the designation of CLU or FLMI shall be exempt from the life, accident and sickness counselor examination.

(d) An applicant with the designation of CIC shall be exempt from the life, accident and sickness counselor examination and/or the property and casualty counselor examination.

(e) The Commissioner may, at his or her discretion, exempt an applicant from examination if the applicant has sufficient experience and qualifications in the lines of authority for which the applicant seeks licensure.

(6) All continuing education requirements as outlined in Rule 120-2-3-.15 and all renewal requirements as outlined in Rule 120-2-3-.16 apply.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.28

AUTHORITY: O.C.G.A. §§ 33-2-9**,** 33-23-1**,** 33-23-1.1**,** 33-23-5**,** 33-23-5.1**,** 33-23-6 **to** 33-23-8**,** 33-23-10**,** 33-23-15**,** 33-23-18**,** 33-23-44**.**

HISTORY: Original Rule entitled "Renewal Required" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.

Amended: F. Aug. 9, 1996; eff. Aug. 29, 1996.

Repealed: New Rule entitled "Resident Counselors" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Amended: F. Aug. 19, 2005; eff. Sept. 8, 2005.

Repealed: New Rule of same title adopted. F. July 16, 2009; eff. August 5, 2009.

Amended: F. Sept. 20, 2023; eff. Aug. 1, 2023, as specified by the Agency.

120-2-3-.29 Resident Credit Insurance Agents and Limited Subagents

(1) Resident Credit Insurance Agent:

(a) To be eligible for a resident credit insurance agent license issued in accordance with Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation, the applicant must make proper application to the Commissioner and pay all required fees. Upon application to the Commissioner, a license for an agent limited to credit insurance shall be issued to any resident individual provided:

1. The individual otherwise meets the requirements for an agent license under Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation; and

2. The application process shall include sponsorship by an insurer licensed to do business in this state. Prior to issuance of the license, the sponsor shall agree to appoint the applicant as a representative of the company. The

sponsor shall affirm that an investigation of the general character of the applicant has been conducted by an agency not affiliated with the insurer and that the sponsor recommends the applicant for a license. Such investigation shall include a criminal background check; and

3. The insurer and applicant certify that the applicant has read the following laws and regulations:

(i) Chapters 6, 7, 24, 27, 30, and 31 of Title 33 of the Official Code of Georgia Annotated; and O.C.G.A. §§ 33-1-9, 33-1-16, 33-2-12, and 33-2-15.

(ii) Rule and Regulations of the State of Georgia Department 120 Chapter 2 Subject 27.

(b) No prelicensing education shall be required other than the certification of compliance with Rules 120-2-3-.29(1)(a)3.(i) and (ii).

(c) No examination shall be required for the issuance of such license.

(d) Effective January 1, 2010, the application process for an agent license will no longer require sponsorship by an insurer. Upon issuance of the agent license, the licensee must obtain a certificate of authority from each insurer that they will represent.

(e) Effective January 1, 2010, all new applicants, excluding active licensees and individuals that apply for reinstatement within 6 months of expiration date, shall be required to submit electronic fingerprints through a vendor selected by the Department for a criminal background check. The applicant shall bear the cost for electronic fingerprinting.

(2) Resident Limited Subagent:

(a) To be eligible for a resident limited subagent credit license issued in accordance with Chapter 23 of Title 33 of the Official Code of Georgia Annotated and this Regulation, the applicant must make proper application to the Commissioner and pay all required fees. The application shall include sponsorship by a licensed resident agent who agrees to assume responsibility for the limited subagent's acts; and,

1. The application process shall include sponsorship by a resident agent licensed to do business in this state. Prior to issuance of the license, the sponsoring agent shall agree to appoint the applicant as a representative of the agent. The sponsoring agent shall affirm that an investigation of the general character of the applicant has been conducted by an agency not affiliated with the agent and that the sponsoring agent recommends the applicant for a license. Such investigation shall include a criminal background check; and

2. Both the applicant and the sponsoring agent certify that the applicant has read the following laws and regulations:

(i) Chapters 6, 7, 24, 27, 30, and 31 of Title 33 of the Official Code of Georgia Annotated; and O.C.G.A. §§ 33-1-9, 33-1-16, 33-2-12, and 33-2-15.

(ii) Rule and Regulations of the State of Georgia Department 120 Chapter 2 Subject 27.

(b) No prelicensing education shall be required other than the certification of compliance with Rules 120-2-3-.29(2)(a)3.(i) and (ii).

(c) No examination shall be required for issuance of such license.

(d) The sponsoring agent shall hold the credit insurance limited subagent's license and return such license to the Commissioner upon termination of the subagent's authority.

(e) The termination, cancellation, or nonrenewal of the sponsoring agent's license will result in the cancellation of the limited subagent's license.

(f) Effective January 1, 2010, all new applicants, excluding active licensees and individuals that apply for reinstatement within 6 months of expiration date, shall be required to submit electronic fingerprints through a vendor selected by the Department for a criminal background check. The applicant shall bear the cost for electronic fingerprinting.

(3) License Renewal and Continuing Education Filing Requirements. Each year by the dates specified in Rule 120-2-3-.16, license renewals must be filed on forms prescribed by the Commissioner, accompanied by the appropriate fee; additionally, credit insurance agents and limited subagents must file as follows:

(a) Resident Credit Insurance Agent. The insurer shall certify to the Commissioner that the credit insurance agent has spent a minimum of five (5) hours of self-study during the preceding year in credit insurance subjects specified in Rules 120-2-3-.29(1)(a)3.(i) and (ii). In lieu of such certification, the agent may submit evidence of completion of a minimum of five (5) hours of classroom study or equivalent correspondence or other individual study programs as provided in this Regulation, provided such study includes credit insurance subjects specified in Rules 120-2-3-.29(1)(a)3.(i) and (ii). After conversion to a biennial license and upon subsequent renewal, each credit licensee is required to provide proof of ten (10) hours of self-study or continuing education.

(b) Resident Limited Subagent. The sponsoring agent shall certify to the Commissioner that the credit insurance limited subagent has received at least five (5) hours of self-study during the preceding year in credit insurance subjects specified in Rules 120-2-3-.29(2)(a)3.(i) and (ii). In lieu of such certification, the limited subagent may submit evidence of completion of a minimum of five (5) hours of classroom study or equivalent correspondence or other individual study programs as provided in this Regulation, provided such study includes credit insurance subjects specified in Rules 120-2-3-.29(2)(a)3.(i) and (ii). The limited subagent certificate of authority must be renewed in conjunction with the limited subagent license renewal. After conversion to biennial license and upon subsequent renewal, each credit licensee is required to provide proof of ten (10) hours of self-study or continuing education.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.29

AUTHORITY: O.C.G.A. §§ 33-2-9**,** 33-23-5**,** 33-23-5.1**,** 33-23-8**,** 33-23-10**,** 33-23-12**,** 33-23-15**,** 33-23-17**,** 33-23-18**,** 33-23-27**,** 33-23-28**,** 33-23-44**.**

HISTORY: Original Rule entitled "Credit Insurance Subagent" adopted. F. Sept. 10, 1992; eff. Sept. 30, 1992.

Amended: Rule retitled "Credit Insurance". F. Aug. 9, 1996; eff. Aug. 29, 1996.

Repealed: New Rule entitled "Resident Credit Insurance Agents and Limited Subagents" adopted. F. Jan. 15, 2003; eff. Feb. 4, 2003.

Amended: F. July 16, 2009; eff. August 5, 2009.

Repealed: New Emergency Rule adopted. F. Jun. 28, 2012; eff. Jun. 28, 2012, as specified by the agency.

Repealed: New Rule of same title adopted. F. Sept. 10, 2012; eff. Sept. 30, 2012.

Amended: F. Sept. 20, 2023; eff. Aug. 1, 2023, as specified by the Agency.

120-2-3-.48 Navigator and Georgia Access Specialist

(1) No person shall act as a Navigator, as defined in O.C.G.A. § 33-23-201(3), without first obtaining a license to act as such from the Commissioner.

(2) The Commissioner may not issue a Navigator license to any applicant until such applicant has:

(a) Submitted an application on forms provided by the Commissioner. Such form shall include an acknowledgement from the applicant that such applicant understands that a Navigator license is not alone sufficient to sell, solicit, or negotiate insurance in the State of Georgia;

(b) Submitted a résumé listing the applicant's educational background and experience related to the functions of a Navigator;

(c) Successfully completed not less than 35 hours of instruction;

(d) Passed an exam as required by the Commissioner;

(e) Attained the age of 18;

(f) Submitted electronic fingerprints through a vendor selected by the Department to run criminal background checks. The applicant shall bear the cost for electronic fingerprinting; and

(g) Submitted proof satisfactory to the Commissioner that such applicant (or such applicant's sponsoring entity) has been approved by the State authorities, by being awarded a grant or otherwise, to act as Navigator, as defined in O.C.G.A. § 33-23-201(3).

(3) Each license shall expire August 31.

(4) In determining whether any applicant has satisfied the pre-licensing education requirement set forth in subparagraph (d) of paragraph (2) of this regulation. Up to 25 hours of pre-licensing training may consist of education provided by approved provider provided that the applicant submits documentation, satisfactory to the Commissioner that the applicant has, in fact, spent the amount of time requested engaged in pre-licensing training. If the applicant completes 25 hours of navigator training, the remaining 10 hours must be satisfied by completing the 10 hour Navigator prelicensing course through an approved provider.

(5) The Commissioner may not renew a Navigator license until such applicant has:

(a) Submitted a license renewal on forms prescribed by the Commissioner;

(b) License renewals are due on or before the August 31 expiration date;

(c) Failure to file the required license renewal form shall result in the expiration of the license.

(d) Completed 10 hours of Continuing education; hours must be completed annually on or before the expiration date of the license. Up to 10 hours of Continuing Education may consist of education provided by approved provider provided that the licensee submits documentation, satisfactory to the Commissioner that the licensee has, in fact, spent the amount of time requested engaged in training.

(e) Submitted proof satisfactory to the Commissioner that such applicant (or such applicant's sponsoring entity) has been approved, by being awarded a federal grant or otherwise, to act as a Navigator.

Cite as Ga. Comp. R. & Regs. R. 120-2-3-.48

AUTHORITY: O.C.G.A. §§ 33-2-9**,** 33-8-1**,** 33-23-5**,** 33-23-5.1**,** 33-23-10**,** 33-23-9**,** 33-23-44**,** 33-23-200**,** 33-23-201**,** 33-23-202**,** 33-23-203**,** 33-23-204**,** 33-23-205**.**

HISTORY: New rule entitled "Severability" adopted. F. Sept. 10, 2012; eff. Sept. 30, 2012.

Repealed: New rule entitled "Violations" adopted. F. Nov. 26, 2012; eff. Dec. 16, 2012.

Repealed: New Rule entitled "Navigator" adopted. F. Oct. 15, 2013; eff. Nov. 4, 2013.

Amended: New title, "Navigator and Georgia Access Specialist." F. Sept. 20, 2023; eff. Aug. 1, 2023, as specified by the Agency.

Department 120. OFFICE OF COMMISSIONER OF INSURANCE, SAFETY FIRE COMMISSIONER AND INDUSTRIAL LOAN COMMISSIONER

Chapter 120-2. RULES OF COMMISSIONER OF INSURANCE

Subject 120-2-72. SPECIAL INSURANCE FRAUD FUND

120-2-72-.05 Participation in Fund

(1) On or before July 1 of the year of the approval of the appropriation specified in O.C.G.A. § 33-1-17, the Commissioner shall assess each foreign, alien and domestic insurance company doing business in Georgia on the following basis:

(a) Each insurer whose Georgia written premium is less than $1,000,000.00, including those insurers whose Georgia written premium is zero or less than zero, will each be assessed a fixed amount not more than the minimum amount assessed an insurer with Georgia written premium of $1,000,000.00 or greater;

(b) Each insurer whose Georgia written premium is $40,000,000.00 or greater but less than $100,000,000.00, an assessment equal to .0035 times the appropriated amount;

(c) Each insurer whose Georgia written premium is $100,000,000.00 or greater but less than $500,000,000.00, an assessment equal to .0045 times the appropriated amount;

(d) Each captive insurer - other than the following domestic captive insurance companies: an agency captive insurance company, dormant captive insurance company, industrial insured captive insurance company, sponsored captive insurance company (including a protected cell thereof), or pure captive insurance company - shall be assessed a fixed amount of $100.00, without regard to the amount of premium written;

(e) Each insurer whose Georgia written premium is $500,000,000.00 or greater but less than $1,000,000,000.00, an assessment equal to .0055 times the appropriated amount;

(f) Each insurer whose Georgia written premium is $1,000,000,000.00 or greater, an assessment equal to .0065 times the appropriated amount;

(g) Regarding each insurer not included in (a) through (f) herein, an assessment shall be computed on a pro-rata basis of the remainder of the appropriation for each insurer whose Georgia written premium is $1,000,000.00 or greater but less than $40,000,000.00.

(2) Written premium is premiums written in GEORGIA ONLY, including annuity considerations and is determined prior to reinsurance transactions. Written premium is determined from the most recent annual statement on file with the Commissioner at the time the assessment calculations are made.

(3) Assessments based on the annual appropriation shall be due on September 1 of the year of the assessment.

(4) In the event of a supplemental appropriation, the assessment will be made as soon as practicable after approval of the appropriation, and will be due thirty (30) days after assessment.

(5) Any assessment levied pursuant to this Regulation Chapter which is not remitted to the Georgia Insurance Department on or before the due date shall be deemed delinquent and subject to a penalty of 10% of the amount owed, together with interest on the principal at the rate of 1% per month, or any part of a month, from the date due until the date paid. Such penalty and interest, if any, shall be transmitted by the Commissioner to the State Treasury and shall not act to increase the funds available for the purposes described in O.C.G.A. § 33-1-17.

(6) When the dates prescribed by this regulation fall on a Saturday, Sunday, or legal holiday the date shall be postponed until the first day following which is not a Saturday, Sunday or legal holiday.

Cite as Ga. Comp. R. & Regs. R. 120-2-72-.05

AUTHORITY: O.C.G.A. §§ 33-1-17**,** 33-2-9**.**

HISTORY: Original Rule entitled "Participation in Fund" adopted. F. Feb. 18, 1997; eff. Mar. 10, 1997.

Amended: ER. 120-2-72-0.15-.05 adopted. F. June 29, 2005; eff. June 28, 2005, the date of adoption.

Amended: Permanent Rule adopted. F. June 24, 2005; eff. July 14, 2005.

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

Repealed: New Rule of same title adopted. F. Jun. 7, 2013; eff. Jun. 27, 2013.

Amended: F. Sept. 21, 2015; eff. Oct. 11, 2015.

Amended: F. Dec. 12, 2016; eff. Jan. 1, 2017.

Amended: F. Mar. 20, 2020; eff. Apr. 13, 2020, as specified by the Agency.

Amended: F. Sept. 20, 2023; eff. Aug. 1, 2023, as specified by the Agency.

Department 120. OFFICE OF COMMISSIONER OF INSURANCE, SAFETY FIRE COMMISSIONER AND INDUSTRIAL LOAN COMMISSIONER

Chapter 120-2. RULES OF COMMISSIONER OF INSURANCE

Subject 120-2-78. CREDIT FOR REINSURANCE

120-2-78-.08 Credit for Reinsurance-Certified Reinsurers

(1) Pursuant to O.C.G.A. § 33-7-14(a)(5), the commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that has been certified as a reinsurer in this state at all times for which statutory financial statement credit for reinsurance is claimed under this section. The credit allowed shall be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the commissioner. The security shall be in a form consistent with the provisions of O.C.G.A. §§ 33-7-14(a)(5) and 33-7-14(b) and Sections 11, 12 or 13 of this Regulation. The amount of security required in order for full credit to be allowed shall correspond with the following requirements:

(a)

Ratings	**Security Required**
Secure - 1	0%
Secure - 2	10%
Secure - 3	20%
Secure - 4	50%
Secure - 5	75%
Vulnerable - 6	100%

(b) Affiliated reinsurance transactions shall receive the same opportunity for reduced security requirements as all other reinsurance transactions.

(c) The commissioner shall require the certified reinsurer to post one hundred percent (100%), for the benefit of the ceding insurer or its estate, security upon the entry of an order of rehabilitation, liquidation or conservation against the ceding insurer.

(d) In order to facilitate the prompt payment of claims, a certified reinsurer shall not be required to post security for catastrophe recoverables for a period of one year from the date of the first instance of a liability reserve entry by the ceding company as a result of a loss from a catastrophic occurrence as recognized by the commissioner. The one year deferral period is contingent upon the certified reinsurer continuing to pay claims in compliance with its contractual terms and obligations as set forth in the reinsurance agreement under which the claims are ceded. Reinsurance recoverables for only the following lines of business as reported on the NAIC annual financial statement related specifically to the catastrophic occurrence will be included in the deferral:

1. Line 1: Fire

2. Line 2: Allied Lines

3. Line 3: Farmowners multiple peril

4. Line 4: Homeowners multiple peril

5. Line 5: Commercial multiple peril

6. Line 9: Inland Marine

7. Line 12: Earthquake

8. Line 21: Auto physical damage

(e) Credit for reinsurance under this section shall apply only to reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer.

(f) Nothing in this section shall prohibit the parties to a reinsurance agreement from agreeing to provisions establishing security requirements that exceed the minimum security requirements established for certified reinsurers under this section.

(2) Certification Procedure.

(a) The commissioner shall post notice on the insurance department's website promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The commissioner may not take final action on the application until at least thirty (30) days after posting the notice required by this paragraph.

(b) The commissioner shall issue written notice to an assuming insurer that has made application and been approved as a certified reinsurer. Included in such notice shall be the rating assigned the certified reinsurer in accordance with Subsection (1) of this section. The commissioner shall publish a list of all certified reinsurers and their ratings.

(c) In order to be eligible for certification, the assuming insurer shall meet the following requirements:

(1) The assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a Qualified Jurisdiction, as determined by the commissioner pursuant to Subsection (3) of this section.

(2) The assuming insurer must maintain capital and surplus, or its equivalent, of no less than $250,000,000 calculated in accordance with Subparagraph (d)(8) of this subsection. This requirement may also be satisfied by an association including incorporated and individual unincorporated underwriters having minimum capital and surplus equivalents (net of liabilities) of at least $250,000,000 and a central fund containing a balance of at least $250,000,000.

(3) The assuming insurer must maintain financial strength ratings from two or more rating agencies deemed acceptable by the commissioner. These ratings shall be based on interactive communication between the rating agency and the assuming insurer and shall not be based solely on publicly available information. These financial strength ratings will be one factor used by the commissioner in determining the rating that is assigned to the assuming insurer. Acceptable rating agencies include the following:

(i) Standard & Poor's;

(ii) Moody's Investors Service;

(iii) Fitch Ratings;

(iv) A.M. Best Company; or

(v) Any other Nationally Recognized Statistical Rating Organization.

(4) The certified reinsurer must comply with any other requirements reasonably imposed by the commissioner.

(d) Each certified reinsurer shall be rated on a legal entity basis, with due consideration being given to the group rating where appropriate, except that an association including incorporated and individual unincorporated underwriters that has been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating. Factors that may be considered as part of the evaluation process include, but are not limited to, the following:

(1) The certified reinsurer's financial strength rating from an acceptable rating agency. The maximum rating that a certified reinsurer may be assigned will correspond to its financial strength rating as outlined in the table below. The commissioner shall use the lowest financial strength rating received from an approved rating agency in establishing the maximum rating of a certified reinsurer. A failure to obtain or maintain at least two financial strength ratings from acceptable rating agencies will result in loss of eligibility for certification:

Ratings	Best	S&P	Moody's	Fitch
Secure - 1	A++	AAA	Aaa	AAA
Secure - 2	A+	AA+, AA, AA-	Aa1, Aa2, Aa3	AA+, AA, AA-
Secure - 3	A	A+, A	A1, A2	A+, A
Secure - 4	A-	A-	A3	A-
Secure - 5	B++, B+	BBB+, BBB, BBB-	Baa1, Baa2, Baa3	BBB+, BBB, BBB-
Vulnerable - 6	B, B-C++, C+, C, C-, D, E, F	BB+, BB, BB-, B+, B, B-, CCC, CC, C, D, R	Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, C	BB+, BB, BB-, B+, B, B-, CCC+, CC, CCC-, DD

(2) The business practices of the certified reinsurer in dealing with its ceding insurers, including its record of compliance with reinsurance contractual terms and obligations;

(3) For certified reinsurers domiciled in the U.S., a review of the most recent applicable NAIC Annual Statement Blank, either Schedule F (for property/casualty reinsurers) or Schedule S (for life and health reinsurers);

(4) For certified reinsurers not domiciled in the U.S., a review annually of Form CR-F (for property/casualty reinsurers) or Form CR-S (for life and health reinsurers) (attached as exhibits to this regulation);

(5) The reputation of the certified reinsurer for prompt payment of claims under reinsurance agreements, based on an analysis of ceding insurers' Schedule F reporting of overdue reinsurance recoverables, including the proportion of obligations that are more than ninety (90) days past due or are in dispute, with specific attention given to obligations payable to companies that are in administrative supervision or receivership;

(6) Regulatory actions against the certified reinsurer;

(7) The report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in paragraph (8) below;

(8) For certified reinsurers not domiciled in the U.S., audited financial statements, regulatory filings, and actuarial opinion (as filed with the non-U.S. jurisdiction supervisor with a translation into English). Upon the initial application for certification, the commissioner will consider audited financial statements for the last two (2) years filed with its non-U.S. jurisdiction supervisor;

(9) The liquidation priority of obligations to a ceding insurer in the certified reinsurer's domiciliary jurisdiction in the context of an insolvency proceeding;

(10) A certified reinsurer's participation in any solvent scheme of arrangement, or similar procedure, which involves U.S. ceding insurers. The commissioner shall receive prior notice from a certified reinsurer that proposes participation by the certified reinsurer in a solvent scheme of arrangement; and

(11) Any other information deemed relevant by the commissioner.

(e) Based on the analysis conducted under Subparagraph (d)(5) of a certified reinsurer's reputation for prompt payment of claims, the commissioner may make appropriate adjustments in the security the certified reinsurer is required to post to protect its liabilities to U.S. ceding insurers, provided that the commissioner shall, at a minimum, increase the security the certified reinsurer is required to post by one rating level under Subparagraph (d)(1) if the commissioner finds that:

(1) more than fifteen percent (15%) of the certified reinsurer's ceding insurance clients have overdue reinsurance recoverables on paid losses of ninety (90) days or more which are not in dispute and which exceed $100,000 for each cedent; or

(2) the aggregate amount of reinsurance recoverables on paid losses which are not in dispute that are overdue by ninety (90) days or more exceeds $50,000,000.

(f) The assuming insurer must submit a properly executed Form CR-1 (attached as an exhibit to this regulation) as evidence of its submission to the jurisdiction of this state, appointment of the commissioner as an agent for service of process in this state, and agreement to provide security for one hundred percent (100%) of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers if it resists enforcement of a final U.S. judgment. The commissioner shall not certify any assuming insurer that is domiciled in a jurisdiction that the commissioner has determined does not adequately and promptly enforce final U.S. judgments or arbitration awards.

(g) The certified reinsurer must agree to meet applicable information filing requirements as determined by the commissioner, both with respect to an initial application for certification and on an ongoing basis. All information submitted by certified reinsurers which are not otherwise public information subject to disclosure shall be exempted from disclosure under O.C.G.A. § 50-18-70, *et. seq.* and shall be withheld from public disclosure. The applicable information filing requirements are, as follows:

(1) Notification within ten (10) days of any regulatory actions taken against the certified reinsurer, any change in the provisions of its domiciliary license or any change in rating by an approved rating agency, including a statement describing such changes and the reasons therefore;

(2) Annually, Form CR-F or CR-S, as applicable.

(3) Annually, the report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in Subsection (4) below;

(4) Annually, the most recent audited financial, regulatory filings, and actuarial opinion (as filed with the certified reinsurer's supervisor with a translation into English). Upon the initial certification, audited financial statements for the last two (2) years filed with the certified reinsurer's supervisor;

(5) At least annually, an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from U.S. domestic ceding insurers;

(6) A certification from the certified reinsurer's domestic regulator that the certified reinsurer is in good standing and maintains capital in excess of the jurisdiction's highest regulatory action level; and

(7) Any other information that the commissioner may reasonably require.

(h) Change in Rating or Revocation of Certification.

(1) In the case of a downgrade by a rating agency or other disqualifying circumstance, the commissioner shall upon written notice assign a new rating to the certified reinsurer in accordance with the requirements of Regulation 120-2-78-.08(2)(d).

(2) The commissioner shall have the authority to suspend, revoke, or otherwise modify a certified reinsurer's certification at any time if the certified reinsurer fails to meet its obligations or security requirements under this section, or if other financial or operating results of the certified reinsurer, or documented significant delays in

payment by the certified reinsurer, lead the commissioner to reconsider the certified reinsurer's ability or willingness to meet its contractual obligations.

(3) If the rating of a certified reinsurer is upgraded by the commissioner, the certified reinsurer may meet the security requirements applicable to its new rating on a prospective basis, but the commissioner shall require the certified reinsurer to post security under the previously applicable security requirements as to all contracts in force on or before the effective date of the upgraded rating. If the rating of a certified reinsurer is downgraded by the commissioner, the commissioner shall require the certified reinsurer to meet the security requirements applicable to its new rating for all business it has assumed as a certified reinsurer.

(4) Upon revocation of the certification of a certified reinsurer by the commissioner, the assuming insurer shall be required to post security in accordance with Regulation 120-2-78-.10 in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust in accordance with Regulation 120-2-78-.07, the commissioner may allow additional credit equal to the ceding insurer's *pro rata* share of such funds, discounted to reflect the risk of uncollectibility and anticipated expenses of trust administration. Notwithstanding the change of a certified reinsurer's rating or revocation of its certification, a domestic insurer that has ceded reinsurance to that certified reinsurer may not be denied credit for reinsurance for a period of three (3) months for all reinsurance ceded to that certified reinsurer, unless the reinsurance is found by the commissioner to be at high risk of uncollectibility.

(3) Qualified Jurisdictions.

(a) If, upon conducting an evaluation under this section with respect to the reinsurance supervisory system of any non-U.S. assuming insurer, the commissioner determines that the jurisdiction qualifies to be recognized as a qualified jurisdiction, the commissioner shall publish notice and evidence of such recognition in an appropriate manner. The commissioner may establish a procedure to withdraw recognition of those jurisdictions that are no longer qualified.

(b) In order to determine whether the domiciliary jurisdiction of a non-U.S. assuming insurer is eligible to be recognized as a qualified jurisdiction, the commissioner shall evaluate the reinsurance supervisory system of the non-U.S. jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits and the extent of reciprocal recognition afforded by the non-U.S. jurisdiction to reinsurers licensed and domiciled in the U.S. The commissioner shall determine the appropriate approach for evaluating the qualifications of such jurisdictions, and create and publish a list of jurisdictions whose reinsurers may be approved by the commissioner as eligible for certification. A qualified jurisdiction must agree, in writing, to share information and cooperate with the commissioner with respect to all certified reinsurers domiciled within that jurisdiction. Additional factors to be considered in determining whether to recognize a qualified jurisdiction, in the discretion of the commissioner, include but are not limited to the following:

(1) The framework under which the assuming insurer is regulated.

(2) The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and financial surveillance.

(3) The substance of financial and operating standards for assuming insurers in the domiciliary jurisdiction.

(4) The form and substance of financial reports required to be filed or made publicly available by reinsurers in the domiciliary jurisdiction and the accounting principles used.

(5) The domiciliary regulator's willingness to cooperate with U.S. regulators in general and the commissioner in particular.

(6) The history of performance by assuming insurers in the domiciliary jurisdiction.

(7) Any documented evidence of substantial problems with the enforcement of final U.S. judgments in the domiciliary jurisdiction. A jurisdiction will not be considered to be a qualified jurisdiction if the commissioner has determined that it does not adequately and promptly enforce final U.S. judgments or arbitration awards.

(8) Any relevant international standards or guidance with respect to mutual recognition of reinsurance supervision adopted by the International Association of Insurance Supervisors or successor organization.

(9) Any other matters deemed relevant by the commissioner.

(c) The Commissioner shall consider any publicized list of jurisdictions that may be published through the NAIC Committee Process. If the commissioner approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the commissioner shall provide thoroughly documented justification with respect to the criteria provided under Regulation Subsections 120-2-78-.08(3)(b)(1) to (9).

(d) U.S. jurisdictions that meet the requirements for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions.

(4) Recognition of Certification Issued by an NAIC Accredited Jurisdiction.

(a) If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the commissioner has the discretion to defer to that jurisdiction's certification, and to defer to the rating assigned by that jurisdiction, if the assuming insurer submits a properly executed Form CR-1 and such additional information as the commissioner requires. The assuming insurer shall be considered to be a certified reinsurer in this State.

(b) Any change in the certified reinsurer's status or rating in the other jurisdiction shall apply automatically in this State as of the date it takes effect in the other jurisdiction. The certified reinsurer shall notify the commissioner of any change in its status or rating within 10 days after receiving notice of the change.

(c) The commissioner may withdraw recognition of the other jurisdiction's rating at any time and assign a new rating in accordance with Subparagraph 2(g)(1) of this section.

(d) The commissioner may withdraw recognition of the other jurisdiction's certification at any time, with written notice to the certified reinsurer. Unless the commissioner suspends or revokes the certified reinsurer's certification in accordance with Subparagraph (2)(g)(2) of this section, the certified reinsurer's certification shall remain in good standing in this State for a period of three (3) months, which shall be extended if additional time is necessary to consider the assuming insurer's application for certification in this State.

(5) Mandatory Funding Clause. In addition to the clauses required under Regulation 120-2-78.-14, reinsurance contracts entered into or renewed under this section shall include a proper funding clause, which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer under this section for reinsurance ceded to the certified reinsurer.

(6) The commissioner shall comply with all reporting and notification requirements that may be established by the NAIC with respect to certified reinsurers and qualified jurisdictions.

Credit for Reinsurance Regulation

FORM CR-1

CERTIFICATE OF CERTIFIED REINSURER

I, _____,
_____

(name of officer) (title of officer) of
_____, the assuming insurer

(name of assuming insurer)

under a reinsurance agreement with one or more insurers domiciled in _____, in order to be considered for approval in this state, hereby certify that
(name of state)

_____("Assuming Insurer"):

(name of assuming insurer)

1. Submits to the jurisdiction of any court of competent jurisdiction in _____ (ceding insurer's state of domicile) for the adjudication of any issues arising out of the reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement.

2. Designates the Insurance Commissioner of _____ (ceding insurer's state of domicile) as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement instituted by or on behalf of the ceding insurer.

3. Agrees to provide security in an amount equal to 100% of liabilities attributable to U.S. ceding insurers if it resists enforcement of a final U.S. judgment or properly enforceable arbitration award.

4. Agrees to provide notification within 10 days of any regulatory actions taken against it, any change in the provisions of its domiciliary license or any change in its rating by an approved rating agency, including a statement describing such changes and the reasons therefore.

5. Agrees to annually file information comparable to relevant provisions of the NAIC financial statement for use by insurance markets in accordance with [cite relevant provision of the state equivalent of the Credit for Reinsurance Model Regulation].

6. Agrees to annually file the report of the independent auditor on the financial statements of the insurance enterprise.

7. Agrees to annually file audited financial statements, regulatory filings, and actuarial opinion in accordance with [cite relevant provision of the state equivalent of the Credit for Reinsurance Model Regulation].

8. Agrees to annually file an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from U.S. domestic ceding insurers.

9. Is in good standing as an insurer or reinsurer with the supervisor of its domiciliary jurisdiction.

Dated: _____

(name of assuming insurer)

BY: _____

(name of officer)

_____

(title of officer)

Form CR-F - PART 1

Assumed Reinsurance as of December 31, Current Year (000 Omitted)

1	2	3	4	5	Reinsurance On			9	10	11	12	13	14	15
Company Code or ID Number	Name of Reinsured	Domiciliary Jurisdiction	Assumed Premium	6 Paid Losses and Loss Adjustment Expenses	7 Known Case Losses and LAE	8 Cols. 6 + 7	Contingent Commissions Payable	Assumed Premiums Receivable	Unearned Premium	Funds Held by or Deposited With Reinsured Companies	Letters of Credit Posted	Amount of Assets Pledged or Compensating Balances to Secure Letters of Credit	Amount of Assets Pledged or Collateral Held in Trust	
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1	2	3	4	5	Reinsurance On			9	10	11	12	13	14	15

1	2	3	4	5	Reinsurance On			9	10	11	12	13	14	15
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9999999 Totals														

Form CR-F - PART 2

Ceded Reinsurance as of December 31, Current Year (000 Omitted)

1	2	3	4	5	6	Reinsurance Recoverable On									Reinsurance Payable		18	19
Company Code or ID Number	Name of Reinsurer	Domiciliary Jurisdiction	Reinsurance Contracts Ceding 75% or More of Direct Premiums Written	Reinsurance Premiums Ceded	7 Paid Losses	8 Paid LAE	9 Known Case Loss Reserves	10 Known Case LAE Reserves	11 IBNR Loss Reserves	12 IBNR LAE Reserves	13 Unearned Premiums	14 Contingent Commissions	15 Cols. 7 through 14 Totals	16 Ceded Balances Payable	17 Other Amounts Due to Reinsurers	Net Amount Recoverable From Reinsurers Cols. 15 - [16 + 17]	Funds Held by Company Under Reinsurance Treaties	
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1	2	3	4	5	6	Reinsurance Recoverable On									Reinsurance Payable		18	19
9999999 Totals																		

Form CR-S - PART 1 - SECTION 1

Reinsurance Assumed Life Insurance, Annuities, Deposit Funds and Other Liabilities Without Life or Disability Contingencies, and Related Benefits Listed by Reinsured Company as of December 31, Current Year

1 Company Code or ID Number	2	3 Effective Date	4 Name of Reinsured	5 Location	6 Type of Reinsurance Assumed	7 Amount of In Force at End of Year	8 Reserve	9 Premiums	10 Reinsurance Payable on Paid and Unpaid Losses	11 Modified Coinsurance Reserve	12 Funds Withheld Under Coinsurance
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1 Company Code or ID Number	2	3 Effective Date	4 Name of Reinsured	5 Location	6 Type of Reinsurance Assumed	7 Amount of In Force at End of Year	8 Reserve	9 Premiums	10 Reinsurance Payable on Paid and Unpaid Losses	11 Modified Coinsurance Reserve	12 Funds Withheld Under Coinsurance
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1 Company Code or ID Number	2	3 Effective Date	4 Name of Reinsured	5 Location	6 Type of Reinsurance Assumed	7 Amount of In Force at End of Year	8 Reserve	9 Premiums	10 Reinsurance Payable on Paid and Unpaid Losses	11 Modified Coinsurance Reserve	12 Funds Withheld Under Coinsurance
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Totals											

Form CR-S - PART 1 - SECTION 2

Reinsurance Assumed Accident and Health Insurance Listed by Reinsured Company as of December 31, Current Year

1 Company Code or ID Number	2	3 Effective Date	4 Name of Reinsured	5 Domiciliary Jurisdiction	6 Type of Reinsurance Assumed	7 Premiums	8 Unearned Premiums	9 Reserve Liability Other Than For Unearned Premiums	10 Reinsurance Payable on Paid and Unpaid Losses	11 Modified Coinsurance Reserve	12 Funds Withheld Under Coinsurance
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1 Company Code or ID Number	2	3 Effective Date	4 Name of Reinsured	5 Domiciliary Jurisdiction	6 Type of Reinsurance Assumed	7 Premiums	8 Unearned Premiums	9 Reserve Liability Other Than For Unearned Premiums	10 Reinsurance Payable on Paid and Unpaid Losses	11 Modified Coinsurance Reserve	12 Funds Withheld Under Coinsurance
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1 Company Code or ID Number	2	3 Effective Date	4 Name of Reinsured	5 Domiciliary Jurisdiction	6 Type of Reinsurance Assumed	7 Premiums	8 Unearned Premiums	9 Reserve Liability Other Than For Unearned Premiums	10 Reinsurance Payable on Paid and Unpaid Losses	11 Modified Coinsurance Reserve	12 Funds Withheld Under Coinsurance
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1 Company Code or ID Number	2	3 Effective Date	4 Name of Reinsured	5 Domiciliary Jurisdiction	6 Type of Reinsurance Assumed	7 Premiums	8 Unearned Premiums	9 Reserve Liability Other Than For Unearned Premiums	10 Reinsurance Payable on Paid and Unpaid Losses	11 Modified Coinsurance Reserve	12 Funds Withheld Under Coinsurance
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Totals											

Form CR-S - PART 2

Reinsurance Recoverable on Paid and Unpaid Losses Listed by Reinsuring Company as of December 31, Current Year

1 Company Code or ID Number	2	3 Effective Date	4 Name of Company	5 Location	6 Paid Losses	7 Unpaid Losses
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1 Company Code or ID Number	2	3 Effective Date	4 Name of Company	5 Location	6 Paid Losses	7 Unpaid Losses

1 Company Code or ID Number	2	3 Effective Date	4 Name of Company	5 Location	6 Paid Losses	7 Unpaid Losses
Totals-Life, Annuity and Accident and Health						

Form CR-S - PART 3 - SECTION 1

Reinsurance Ceded Life Insurance, Annuities, Deposit Funds and Other Liabilities Without Life or Disability Contingencies, and Related Benefits Listed by Reinsuring Company as of December 31, Current Year

1 Company Code or ID Number	2	3 Effective Date	4 Name of Company	5 Location	6 Type of Reinsurance Ceded	7 Amount in Force at End of Year	Reserve Credit Taken		10 Premiums	Outstanding Surplus Relief		13 Modified Coinsurance Reserve	14 Funds Withheld Under Coinsurance
							8 Current Year	9 Prior Year	11 Current Year	12 Prior Year			
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1 Company Code or ID Number	2	3 Effective Date	4 Name of Company	5 Location	6 Type of Reinsurance Ceded	7 Amount in Force at End of Year	Reserve Credit Taken		10 Premiums	Outstanding Surplus Relief			13 Modified Coinsurance Reserve	14 Funds Withheld Under Coinsurance
							8 Current Year	9 Prior Year	11 Current Year	12 Prior Year				
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1 Company Code or ID Number	2	3 Effective Date	4 Name of Company	5 Location	6 Type of Reinsurance Ceded	7 Amount in Force at End of Year	Reserve Credit Taken		10 Premiums	Outstanding Surplus Relief		13 Modified Coinsurance Reserve	14 Funds Withheld Under Coinsurance
							8 Current Year	9 Prior Year	11 Current Year	12 Prior Year			
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1 Company Code or ID Number	2	3 Effective Date	4 Name of Company	5 Location	6 Type of Reinsurance Ceded	7 Amount in Force at End of Year	Reserve Credit Taken		10 Premiums	Outstanding Surplus Relief		13 Modified Coinsurance Reserve	14 Funds Withheld Under Coinsurance
							8 Current Year	9 Prior Year	11 Current Year	12 Prior Year			
Totals													

Form CR-S - PART 3 - SECTION 2

Reinsurance Ceded Accident and Health Insurance Listed by Reinsuring Company as of December 31, Current Year

1 Company Code or ID Number	2	3 Effective Date	4 Name of Company	5 Location	6 Type	7 Premiums	8 Unearned Premiums (Estimated)	9 Reserve Credit Taken Other than for Unearned Premiums	Outstanding Surplus Relief		12 Modified Coinsurance Reserve	13 Funds Withheld Under Coinsurance
									10 Current Year	11 Prior Year		

1 Company Code or ID Number	2	3 Effective Date	4 Name of Company	5 Location	6 Type	7 Premiums	8 Unearned Premiums (Estimated)	9 Reserve Credit Taken Other than for Unearned Premiums	Outstanding Surplus Relief		12 Modified Coinsurance Reserve	13 Funds Withheld Under Coinsurance
									10 Current Year	11 Prior Year		
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1 Company Code or ID Number	2	3 Effective Date	4 Name of Company	5 Location	6 Type	7 Premiums	8 Unearned Premiums (Estimated)	9 Reserve Credit Taken Other than for Unearned Premiums	Outstanding Surplus Relief		12 Modified Coinsurance Reserve	13 Funds Withheld Under Coinsurance
									10 Current Year	11 Prior Year		
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1 Company Code or ID Number	2	3 Effective Date	4 Name of Company	5 Location	6 Type	7 Premiums	8 Unearned Premiums (Estimated)	9 Reserve Credit Taken Other than for Unearned Premiums	Outstanding Surplus Relief		12 Modified Coinsurance Reserve	13 Funds Withheld Under Coinsurance
									10 Current Year	11 Prior Year		
Totals												

Cite as Ga. Comp. R. & Regs. R. 120-2-78-.08

AUTHORITY: O.C.G.A. §§ 33-2-9**,** 33-63**.**

HISTORY: Original Rule entitled "Severability" adopted. F. Jul. 9, 1997; eff. July 29, 1997.

Repealed: New Rule entitled "Credit for Reinsurance--Certified Reinsurers" adopted. F. May 23, 2013; eff. June 12, 2013.

Amended: F. Sept. 20, 2023; eff. Aug. 1, 2023, as specified by the Agency.

Department 120. OFFICE OF COMMISSIONER OF INSURANCE, SAFETY FIRE COMMISSIONER AND INDUSTRIAL LOAN COMMISSIONER

Chapter 120-2. RULES OF COMMISSIONER OF INSURANCE

Subject 120-2-111. PATIENT'S RIGHT TO INDEPENDENT REVIEW

120-2-111-.01 Applicability

These Rules shall apply to the applicants for certification as independent review organizations, and all attendant procedures thereto; any and all independent review organizations certified by the State Health Planning Agency, or its successor Agency, the Department of Insurance, hereinafter known as the Department, pursuant to the authority granted by O.C.G.A. § 33-20A-30, which article shall be known and cited as the "Patient's Right to Independent Review Act", and the procedures for the request for independent review; and the procedures for independent review of services previously rendered as well as concurrent or prospective services by a managed care entity to an eligible enrollee as those terms are defined herein. Any independent review organization that has been certified by an independent national accrediting organization that has developed standards for the purpose of bestowing certification or accreditation upon entities of this type, and that can provide documentation to the Department of such certification or accreditation, shall be deemed certified by the Department and shall not have to apply for certification as an independent review organization in Georgia in order to be added to the Department's list of certified independent review organizations.

Cite as Ga. Comp. R. & Regs. R. 120-2-111-.01

AUTHORITY: O.C.G.A. §§ 33-2-9**,** 33-20A-41**.**

HISTORY: Original Rule entitled "Applicability" adopted. F. Sept. 20, 2023; eff. August 1, 2023, as specified by the Agency.

120-2-111-.02 Definitions

(1) "Act" means O.C.G.A. § 33-20A-30 *et seq.*, which shall be known and cited as the "Patient's Right to Independent Review Act."

(2) "Adverse Outcome" means a decision issued by a managed care entity to an eligible enrollee after the grievance procedure provided for in O.C.G.A. § 33-20A-5, which was a denial of the claim in whole or in part of the eligible enrollee or a refusal to pay for a treatment sought.

(3) "Affiliate" means a person who directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the person specified.

(4) "Applicant" means a party that seeks approval from the Department to be certified as an independent review organization, or to have a previous certification renewed.

(5) "Commissioner" means the Commissioner of the Georgia Department of Insurance.

(6) "Dental Plan" means an insurance policy or health benefit plan, including a policy written by a company subject to the provisions of O.C.G.A. § 33-20A-1 *et seq.* that provides coverage for expenses for dental services.

(7) "Dentist" means a licensed doctor of dentistry holding either a D.D.S. or a D.M.D. degree.

(8) "Department" means the Department of Insurance.

(9) "Eligible Enrollee" means a person who:

(a) Is an enrollee or an eligible dependent of an enrollee of a managed care plan or was an enrollee or an eligible dependent of an enrollee of such plan at the time of the request for treatment and,

(b) Seeks a treatment which reasonably appears to be a covered service or benefit under the enrollee's evidence of coverage; provided, however, that this subparagraph shall not apply if the notice from a managed care plan of the outcome of the grievance procedure was that a treatment is experimental.

(10) "Emergency Services" or "Emergency Care" means those health care services that are provided for a condition of recent onset and sufficient severity, including but not limited to severe pain, that would lead a prudent layperson, possessing an average knowledge of medicine and health, to believe that his or her condition, sickness, or injury is of such a nature that failure to obtain immediate medical care could result in:

(a) Placing the patient's health in serious jeopardy;

(b) Serious impairment to bodily functions; or

(c) Serious dysfunction of any bodily organ or part.

(11) "Expert reviewer" means a person assigned by the independent review organization to review a request, and whose qualifications are consistent with the criteria as set forth in the Act and/or this Rule.

(12) "Grievance Procedure" means the internal grievance procedure of a managed care entity established for that entity pursuant to O.C.G.A. § 33-20A-5.

(13) "Health Benefit Plan" means a plan of benefits that defines the coverage provisions for health care offered or provided by any organization, public or private, other than health insurance.

(14) "Health Care Provider" or "provider" means any physician, dentist, podiatrist, pharmacist, optometrist, psychologist, clinical social worker, advance practice nurse, registered optician, licensed professional counselor, physical therapist, marriage and family therapist, chiropractor, occupational therapist, speech language pathologist, audiologist, dietician, or physician's assistant.

(15) "Health Insurance Policy" means an insurance policy, including a policy subject to the provisions of O.C.G.A. § 33-20A *et seq.*, that provides coverage for medical or surgical expenses incurred as a result of accident or sickness.

(16) "Independent Review" means a system of administrative appeal an eligible enrollee is entitled to receive when any of the conditions set forth in Rule 120-2-111-.04 have been met.

(17) "Independent Review Organization" means any organization certified as such by the State Health Planning Agency or its successor Agency, the Department of Insurance, pursuant to O.C.G.A. § 33-20A-39.

(18) "Independent Review Plan" means the screening criteria and review procedures of an independent review organization.

(19) "Managed Care Entity" includes an insurance company, hospital or medical service plan, hospital, health care provider network, physician hospital organization, health care provider, health maintenance organization, health care corporation, employer or employee organization, or managed care contractor that offers a managed care plan.

(20) "Managed Care Plan" means a major medical, hospitalization, or dental plan that provides for the financing and delivery of health care services to persons enrolled in such plan through:

(a) Arrangements with selected providers to furnish health care services;

(b) Explicit standards for the selection of participating providers and,

(c) Cost savings for persons enrolled in the plan to use the participating providers and procedures provided for by the plan; provided, however, that the term "managed care plan" does not apply to Chapter 9 of Title 34, relating to workers' compensation.

(21) "Medical and Scientific Evidence" means:

(a) Peer reviewed scientific studies published in or accepted for publication by medical journals that meet nationally recognized requirements for scientific manuscripts and that submit most of their published articles for review by experts who are not part of the editorial staff;

(b) Peer reviewed literature, biomedical compendia, and other medical literature that meet the criteria of the National Institutes of Health's National Library of Medicine for indexing in Index Medicus, Excerpta Medicus (EMBASE), Medline, and MEDLARS data base or Health Services Technology Assessment Research (HSTAR);

(c) Medical journals recognized by the United States Secretary of Health and Human Services, under Section 1861(t)(2) of the Social Security Act;

(d) The following standard reference compendia: the American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluation, the American Dental Association Accepted Dental Therapeutics, and the United States Pharmacopoeia-Drug Information; or

(e) Findings, studies, or research conducted by or under the auspices of federal government agencies and nationally recognized federal research institutes including the Federal Agency for Health Care Policy and Research, National Institutes of Health, National Cancer Institute, National Academy of Sciences, Health Care Financing Administration, and any national board recognized by the National Institutes of Health for the purpose of evaluating the medical value of health services.

(22) "Medical Necessity", "Medically Necessary Care", or "Medically Necessary and Appropriate" means care based upon generally accepted medical practices in light of conditions at the time of treatment which is:

(a) Appropriate and consistent with the diagnosis and the omission of which could adversely affect or fail to improve the eligible enrollee's condition;

(b) Compatible with the standards of acceptable medical practice in the United States;

(c) Provided in a safe and appropriate setting given the nature of the diagnosis and the severity of the symptoms;

(d) Not provided solely for the convenience of the eligible enrollee or the convenience of the health care provider or hospital; and

(e) Not primarily custodial care, unless custodial care is a covered service or benefit under the eligible enrollee's evidence of coverage.

(23) "Nurse" means a registered nurse.

(24) "Open Records Act" means the provisions codified in O.C.G.A. § 50-18-70 *et seq.*, including those provisions to be effective on July 1, 1999.

(25) "Out of Network" or "Point of Service" refers to health care items or services provided to an eligible enrollee by providers who do not belong to the provider network in the managed care plan.

(26) "Patient" means a person who seeks or receives health care services under a managed care plan.

(27) "Person" means an individual, corporation, partnership, association, joint stock company, trust, unincorporated organization, any similar entity, or any combination of the foregoing acting in concert.

(28) "Physician" means a licensed doctor of medicine or a doctor of osteopathy.

(29) Reserved.

(30) "Provider of Record" means the physician or other health care provider that has primary responsibility for the care, treatment, and services requested on behalf of the patient and includes any health care facility when treatment is rendered on an inpatient or outpatient basis.

(31) "Receipt" means the date of the taking of actual physical possession of an item sent, or the date evidencing such possession by the normal and customary confirmation available for facsimile transmissions, other computer assisted electronic transmissions, courier delivery services, private delivery services, and the U.S. Mail service.

(32) "Screening Criteria" means the written policies, medical protocols, or guidelines used by the independent review organization as part of the independent review process.

(33) "Treatment" means a medical service, diagnosis, procedure, therapy, drug, or device.

(34) "Working Day" means a weekday, excluding any officially designated State holiday.

Cite as Ga. Comp. R. & Regs. R. 120-2-111-.02

AUTHORITY: O.C.G.A. §§ 33-2-9**,** 33-20A-41**.**

HISTORY: Original Rule entitled "Definitions" adopted. F. Sept. 20, 2023; eff. August 1, 2023, as specified by the Agency.

120-2-111-.03 Standards

(1) Certification of Independent Review Organizations.

(a) Filing Information. An application for certification of an independent review organization and certification fee must be filed with the Department of Insurance, Administrative Procedure Division, electronically at the following email address: adminprocedure@oci.ga.gov. There shall be a fee for the application to become an independent review organization, and to renew the certification as an independent review organization, and the provisions governing such fees shall be as follows:

The Department shall establish, administer, and enforce the certification and renewal fees under this section, and the fee for initial application to receive certification as an independent review organization shall be $500; and the fee for annual certification renewal as an independent review organization shall be $250.00.

(b) How to Obtain Forms. The application must be submitted on a form which can be obtained from the Department of Insurance, Administrative Procedure Division at adminprocedure@oci.ga.gov.

(c) Certification Application Content. The applicant must provide information required by the Department, which includes, but is not limited to the following:

1. A summary of the independent review plan which meets the requirements of this Rule as outlined below and must include:

(i) the screening criteria and review procedures to be used to determine medical necessity, medically necessary care, or medically necessary and appropriate care;

(ii) a certification signed by an authorized representative that such screening criteria and review procedures to be applied in review determinations are established with input from appropriate health care providers, including physicians;

(iii) procedures ensuring that the information regarding the reviewing physicians and providers is updated in accordance with this Rule as outlined below relating to Revisions During Review Process and relating to Renewal of Certificate of Registration to ensure the independence of each health care provider or physician making review determinations; and

(iv) specific procedures which will be used to determine if a proposed treatment is experimental.

2. Copies of policies and procedures which ensure that all applicable state and federal laws to protect the confidentiality of medical records and personal information are followed. These procedures must comply with this Rule as outlined below relating to Confidentiality; and the applicant shall also submit a certification signed by an authorized representative that the independent review organization will protect the confidentiality of medical records and personnel information and will comply with all applicable state and federal laws pertaining thereto.

3. A certification signed by an authorized representative that the independent review organization will comply with the provisions of the Act and these Rules;

4. A description of personnel and the accrediting policies and procedures of the applicant, and a completed profile for each expert reviewer and provider, in compliance with this Rule as outlined below relating to Personnel and Credentialing;

5. A description of hours of operation, which must conform to Eastern Standard Time or Eastern Daylight Time, whichever is applicable, and how the independent review organization may be contacted during weekends and holidays, as set forth in this Rule as outlined below relating to Independent Review Organization's Telephone Access;

6. The organizational information, documents and all amendments, including:

(i) The bylaws, Rules and regulations, or operating agreement regulating the conduct of the internal affairs of the applicant with a notarized certification bearing the original signature of an officer or authorized representative of the applicant that they are true, accurate, and complete copies of the originals;

(ii) For an applicant that is publicly held, the name of each stockholder or owner of more than five percent of any stock or options;

(iii) A chart listing the internal organizational structure of the applicant's management and administrative staff;

(iv) A chart showing contractual arrangements of the independent review system; and

(v) Evidence of the applicant's authorization to conduct business in the state of Georgia.

7. The name of any holder of bonds or notes of the applicant that exceed $ 100,000;

8. The name and type of business of each corporation or other organization that the applicant controls or is affiliated with and the nature and extent of the affiliation or control and a chart or list clearly identifying the relationships between the applicant and any affiliates;

9. Biographical information about officers, directors, and staff, including:

(i) The independent review organization must submit the name and biographical information for each director, officer, and executive of the applicant, any entity listed in this section of these Rules, and each expert reviewer conducting independent review, and a description of any relationship, including but not limited to, any past, present

or known future professional, personal, familial, financial, fiduciary, or contractual relationship which the named individual has with:

(I) A health benefit plan;

(II) A health maintenance organization;

(III) An insurer;

(IV) A nonprofit health corporation;

(V) A payor;

(VI) A health care provider; or

(VII) A group representing any of the entities described by paragraphs (aa) through (gg) of this subsection;

(ii) Any relationship between the independent review organization and any affiliate or other organization in which a shareholder has 10 percent (10%) or more interest must be clearly identified;

(iii) A list of any currently outstanding loans or contracts to provide services between the applicant and any of its affiliates or any officers of its affiliates;

10. Information related to out-of-state licensure, permit, certification or other similar business, and service of legal process. All applicants must furnish a copy of the certificate of registration, licensing, or other similar document from the domiciliary state's licensing authority. As a condition of being certified to conduct the business of independent review in this state, an independent review organization that maintains its principal offices or any portion of its books, records, or accounts outside this state must appoint and maintain a person in this state as attorney for service of process on whom all judicial and administrative process, notices, or demands may be served, and must notify the Department of any change of appointment or appointee's address immediately.

11. Written disclosure of types of compensation arrangements made to physicians and providers in exchange for the provision of independent review, including any financial incentives for physicians and providers.

12. The percentage of the applicant's revenues that are anticipated to be derived from independent reviews conducted.

13. The names of any predecessor affiliates and/or companies, including trade names.

(2) Independent Review Organization Conflict of Interest Criteria. Neither the independent review organization nor any expert reviewer of the independent review organization may have any material professional, familial, or financial conflict of interest with any of the following:

(a) A managed care plan or entity being reviewed;

(b) Any officer, director, or management employee of a managed care plan which is being reviewed;

(c) The physician, the physician's medical group, health care provider, or the independent practice association proposing a treatment under review;

(d) The institution at which a proposed treatment would be provided;

(e) The eligible enrollee or the eligible enrollee's representative; or

(f) The development or manufacture of the treatment proposed for the eligible enrollee whose treatment is under review.

(3) As used in subsection (iv) above, the term "conflict of interest" shall not be interpreted to include a contract under which an academic medical center or other similar medical research center provides health care services to eligible enrollees of a managed care plan, except as subject to the requirement of line item (D) of subsection (iv) above; nor affiliations which are limited to staff privileges at a health care facility; or an expert reviewer's participation as a contracting plan provider where the expert is affiliated with an academic medical center or other similar medical research center that is acting as an independent review organization under the Act. An agreement to provide independent review for an eligible enrollee or managed care entity is not a conflict of interest under subsection (iv) of these Rules.

(4) The independent review organization shall have and submit as a part of its application a written quality assurance mechanism in place that ensures the timeliness and quality of the reviews, the qualifications and independence of the expert reviewers, and the confidentiality of medical records and review materials.

(5) The Department shall provide upon the request of any interested person a copy of all information filed with it pursuant to these Rules. Screening criteria and other review procedures of the independent review organization shall not be considered proprietary and privileged information, and shall be subject to disclosure. The Department shall provide at least quarterly a current list of certified independent review organizations to all managed care entities and to any interested persons.

(6) The expert reviewers assigned by the independent review organizations must be physicians or other appropriate providers who meet the following minimum requirements:

(a) Are experts in the treatment of the medical condition at issue and are knowledgeable about the recommended treatment through actual clinical experience;

(b) Hold a non-restricted license issued by a State of the United States and, for physicians, a current certification by a recognized American medical specialty board in the area or areas appropriate to the subject of review; and

(c) Have no history of disciplinary action or sanctions, including, but not limited to, loss of staff privileges or participation restriction, taken or pending by any hospital, government, or regulatory body.

(7) Department Review of Certification Application. The application process is as follows:

(a) Upon receipt of an original and three copies of the application, along with the correct application fee, the Department will have ten (10) working days to determine if the application contains all necessary information needed to deem the application complete. When the Department has determined that the application contains all necessary information for a decision on certification to be made, the Department shall deem the application to be complete.

(b) The Department will notify the applicant, no later than ten (10) working days after the application has been received, if there are any items or additional information necessary for the review for certification that need to be submitted to the Department. If the Department requests additional items or information, the applicant shall have no more than thirty (30) calendar days to provide the additional items or information. If the applicant does not provide the information requested within thirty (30) calendar days from the date of the Department's request, the application shall be deemed withdrawn, and the applicant will be required to submit an entirely new application.

(c) The Department shall notify the applicant of any omissions or deficiencies in the application no later than thirty (30) calendar days after the date on which the application has been deemed complete. The applicant shall have five (5) working days after the receipt of notification from the Department of any omissions or deficiencies to provide the Department with any additional, supplemental, or clarifying information.

(d) The Department shall issue a written decision to the applicant that either approves or denies the application for certification no later than sixty (60) calendar days after the date the Department deems the application complete for review. If the applicant is denied certification, the written notification to the applicant must state, with specificity, the reasons for denial. Either the Department or the applicant may request a thirty (30) calendar day extension of the

sixty (60) day review period. In this case, the Department may accept additional, supplemental, or clarifying information up to the 65th day of the review period. In no circumstances shall the certification review period be longer than ninety (90) calendar days from the date the application has been deemed complete for review.

(e) The Department shall maintain a master file that shall contain the application, and any and all written correspondence between the applicant and the Department during the certification review period, as well as any written comments on the application from other parties sent to the Department during the review period.

(f) If any of the information contained in the application should change during the review period, the applicant must provide the Department with the new information no later than thirty-five (35) days after the application has been deemed complete, or no later than the date for submission of additional or clarifying information requested by the Department as referenced above, or no later than the sixty-fifth (65th) day of the review period if the period is extended to ninety (90) days.

(8) On-Site Examinations. The Department may conduct an on-site examination of an applicant as a requirement of certification as an independent review organization. Documents must be available for inspection at the time of such examination at the administrative offices of the independent review organization as set forth in this Rule as outlined below relating to On-Site Review by the Department.

(9) Withdrawal of an Application.

(a) Upon written notice to the Department, an applicant may request withdrawal of an application from consideration.

(b) Upon the Department's receipt of a request to withdraw an application pursuant to this section, the application shall be withdrawn from consideration. Subsequent applications by the same applicant must be new submissions in their entirety.

(10) Renewal of Certificate of Registration.

(a) The Department shall designate annually each organization that meets the standards as an independent review organization.

(b) An independent review organization must apply for renewal of its certificate of registration every year, not later than ninety (90) days prior to the anniversary date of the issuance of the registration. A renewal form must be used for this purpose. The renewal form can be obtained from the address listed for the Department elsewhere in this Rule. The completed renewal form, the current screening criteria, renewal fee, and certification of no material changes not already filed with the Department must be submitted to the Department.

(c) An independent review organization may continue to operate under its certificate of registration after a completed renewal application form and the current screening criteria has been timely received by the Department until the renewal is finally denied or issued by the Department.

(d) If a completed renewal form and the current screening criteria is not received no later than ninety (90) days prior to the anniversary date of the year in which the certificate of registration must be renewed, the certificate of registration will automatically be canceled and the independent review organization must complete and submit a new application for certificate of registration.

(e) A previously certified independent review organization shall report any material changes in the information contained in its original certification application within 30 days of any change, and all such new information must be reflected in any submissions by the independent review organization in its request for certification renewal. A material change shall be those changes listed in the Act at O.C.G.A. § 33-20A-39(a)(3).

(11) Appeal of Denial of Application or Renewal. If an application or renewal is initially denied under this subchapter, the applicant may appeal such denial pursuant to the provisions of the Georgia Insurance Code, codified at O.C.G.A. § 33-2-17 and Ga. R. & Regs. 120-2-2.

(12) Independent Review Plan. The independent review plan shall be adhered to by the designated expert reviewer and conducted in accordance with the screening criteria and procedures developed with input from appropriate health care providers, including physicians. The independent review plan shall include the following components:

(a) a description of the elements of review which the independent review organization provides, including but not limited to:

1. prospective review;

(i) second opinion;

(ii) hospital admission;

(iii) procedures;

(iv) courses of outpatient treatment;

(v) choice of provider;

2. concurrent review;

(i) second opinion;

(ii) discharge planning;

(iii) readmission review;

(iv) continued stay authorization;

3. retrospective review; and

4. procedures for addressing experimental treatment.

(b) written procedures, in accordance with the Act for:

1. notification of the independent review organization's decisions provided to the eligible enrollee or the eligible enrollee's representative, the managed care entity, and the Department.

2. review, including:

(i) any form used during the review process;

(ii) time frames that shall be met during the review; and

3. contacting and receiving information from health care providers in accordance with this Rule relating to Independent Review Organization's Contact With and Receipt of Information from Health Care Providers.

(13) Screening Criteria. Each independent review organization shall utilize written medically acceptable screening criteria and review procedures which are established and periodically evaluated and updated with appropriate involvement from physicians, including practicing physicians, and other health care providers. All determinations of medical necessity shall be made by the designated expert reviewer of the independent review organization. Such written screening criteria and review procedures shall be available for review and inspection and copying as necessary by the Department in order for the Department to carry out the duties provided for under the Act.

(14) The personnel of an independent review organization must conform to the following criteria:

(a) Personnel employed by or under contract with the independent review organization to perform independent review shall be appropriately trained and qualified and, if applicable, currently licensed, registered, or certified. Personnel who obtain information directly from a physician, dentist, or other health care provider, either orally or in writing, and who are not physicians or dentists, shall be nurses, physician assistants, or health care providers qualified to provide the service requested by the provider. This provision shall not be interpreted to require such qualifications for clerical or administrative personnel who do not perform independent review.

(b) The independent review organization is required to provide to the Department the number, type, and minimum qualifications of the personnel either employed or under contract to perform the independent review. Independent review organizations shall be required to adopt written procedures used to determine whether physicians or other health care providers utilized by the independent review organization are licensed, qualified, and appropriately trained, and must maintain records on such. In addition, the independent review organization must maintain complete profiles of any designated expert reviewer. Such profiles must include all information required by these Rules as outlined below relating to Information Required, and must be kept current.

(c) Independent review conducted by an independent review organization shall be under the direction of an expert reviewer in accordance with these Rules as outlined.

(d) Dental plans shall be independently reviewed by an expert reviewer who is a dentist currently licensed by a state licensing agency in the United States, and who meets all the other requirements for an expert reviewer.

(e) The independent review organization is required to provide to the department a copy of the applicant's selection policies and procedures, including:

1. a description of the categories and qualifications of persons employed or under contract to perform independent review;

2. copies of policies and procedures for orientation and training of persons who perform independent review, including any expert reviewers, and evidence that the applicant meets any applicable provisions of this chapter relating to the qualifications of independent review organizations or the performance of independent reviews, including section (xvii) of these Rules.

(15) Independent Review Organization Contact With and Receipt of Information from Health Care Providers and Patients.

(a) A health care provider may designate one or more individuals as the initial contact or contacts for independent review organizations seeking routine information or data. In no event shall the designation of such an individual or individuals preclude an independent review organization or the expert reviewer from contacting a health care provider or others in his or her employ where a review might otherwise be unreasonably delayed or where the designated individual is unable to provide the necessary information or data requested by the independent review organization.

(b) An independent review organization may not engage in unnecessary or unreasonably repetitive contacts with the health care provider or patient and shall base the frequency of contacts or reviews on the severity or complexity of the patient's condition or on necessary treatment and discharge planning activity.

(c) The managed care entity or the eligible enrollee or the eligible enrollee's representative shall be responsible for delivering to the independent review organization any written information required to conduct the independent review as provided for in a timely manner as specified in the Act and these Rules.

(d) When conducting independent review, the independent review organization shall collect any information necessary to review the adverse outcome not already provided by the managed care entity or the eligible enrollee or the eligible enrollee's representative. This information may include, but is not limited to, identifying information about the eligible enrollee, the benefit plan, the treating health care provider, and/or facilities rendering care. It may also include clinical information regarding the diagnoses of the eligible enrollee and the medical history of the

eligible enrollee relevant to the diagnoses; the eligible enrollee's prognosis; and/or the treatment plan prescribed by the treating health care provider along with the provider's justification for the treatment plan. Second opinion information may also be required when applicable. The burden of proof shall rest with the managed care entity in all questions before the independent review organization.

(e) The independent review organization should share all clinical and demographic information on individual eligible enrollees among its various divisions to avoid duplication of requests for information from eligible enrollees or providers.

Cite as Ga. Comp. R. & Regs. R. 120-2-111-.03

AUTHORITY: O.C.G.A. §§ 33-2-9 **&** 33-20A-41**.**

HISTORY: Original Rule entitled "Standards" adopted. F. Sept. 20, 2023; eff. August 1, 2023, as specified by the Agency.

120-2-111-.04 Request for Independent Review

(1) An eligible enrollee shall be entitled to appeal to an independent review organization when:

(a) The eligible enrollee has received notice of an adverse outcome pursuant to a grievance procedure or the managed care entity has not complied with the requirements of Code Section 33-20A-5 with regard to such procedures; or

(b) A managed care entity determines that a proposed treatment is excluded as experimental under the managed care plan, and all of the following criteria are met:

1. The eligible enrollee has a terminal condition that, according to the treating physician, has a substantial probability of causing death within two years from the date of the request for independent review or the eligible enrollee's ability to regain or maintain maximum function, as determined by the treating physician, would be impaired by withholding the experimental treatment;

2. After exhaustion of standard treatment as provided by the evidence of coverage or a finding that such treatment would be of substantially lesser or of no benefit, the eligible enrollee's treating physician certifies that the eligible enrollee has a condition for which standard treatment would not be medically indicated for the eligible enrollee or for which there is no standard treatment available under the evidence of coverage of the eligible enrollee more beneficial than the treatment proposed;

3. The eligible enrollee's treating physician has recommended and certified in writing treatment which is likely to be more beneficial to the eligible enrollee than any available standard treatment;

4. The eligible enrollee has requested a treatment as to which the eligible enrollee's treating physician, who is a licensed, board certified or board eligible physician qualified to practice in the area of medicine appropriate to treat the eligible enrollee's condition, has certified in writing that scientifically valid studies using accepted protocols, such as control group or double-blind testing, published in peer reviewed literature, demonstrate that the proposed treatment is likely to be more beneficial for the eligible enrollee than available standard treatment; and

5. A specific treatment recommended would otherwise be included within the eligible enrollee's certificate of coverage, except for the determination by the managed care entity that such treatment is experimental for a particular condition.

(2) The Department shall determine that an eligible enrollee is entitled to independent review because of the managed care entity's failure to comply with the requirements of Code Section 33-20A-5 if the managed care entity has failed to grant appropriate relief without delay after a determination favorable to the eligible enrollee; has failed to provide notice meeting the requirements of the Code Section to the eligible enrollee of the outcome of the grievance procedure within 60 days from the date of the grievance request, or 30 days where the grievance involves

a case where the requested care or service has not been rendered, or in the case of an eligible enrollee who meets the requirements of Rule 111-2-3-.06(8) [Code Section 33-20A-37(c)], the managed care entity has failed to notify the eligible enrollee of the outcome of the grievance procedure within 72 hours from the date of the grievance request; or has otherwise failed to comply with the Code Section in question.

(3) The following additional criteria, in accordance with the Act, shall be required for independent review:

(a) Except where required pursuant to Code Section 51-1-49, a proposed treatment must require the expenditure of a minimum of $500.00 to qualify for independent review, provided that the minimum $500.00 expenditure shall include the full cost during the course of treatment of the items and services furnished by all providers and shall include the cost to the managed care entity and/or any provider at risk for the cost and any cost sharing by the eligible enrollee.

(b) The parent or guardian of a minor who is an eligible enrollee may act on behalf of the minor in requesting independent review. The legal guardian or representative of an incapacitated eligible enrollee shall be authorized to act on behalf of the eligible enrollee in requesting independent review. Except as provided in Code Section 51-1-49, independent review may not be requested by persons other than the eligible enrollee or a person acting on behalf of the eligible enrollee as provided in these Rules in accordance with the Act.

(c) A managed care entity shall be required to pay the full cost of applying for and obtaining the independent review, including the flat fee rate plus any ancillary costs as outlined in these Rules.

(d) The eligible enrollee and the managed care entity shall cooperate with the independent review organization to provide the information and documentation, including executing necessary releases for medical records, which are necessary for the independent review organization to make a determination of the claim.

Cite as Ga. Comp. R. & Regs. R. 120-2-111-.04

AUTHORITY: O.C.G.A. §§ 33-2-9, 33-20A-41.

HISTORY: Original Rule entitled "Request for Independent Review" adopted. F. Sept. 20, 2023; eff. August 1, 2023, as specified by the Agency.

120-2-111-.05 Procedure for Request for Independent Review

(1) In the event that the outcome of the grievance procedure under Code Section 33-20A-5 is adverse to the eligible enrollee, the managed care entity shall include with the written notice of the outcome of the grievance procedure a statement specifying that any request for independent review must be made to the Department on forms made available by the Department in accordance with this Rule, and such forms must be included with the notification. Such statement shall be in simple, clear language in boldface type, which is larger and bolder than any other typeface that is in the notice and in at least 14-point typeface.

(2) An eligible enrollee must submit the written request for independent review to the Department. This request need not be in any required format, but may be a simple written request for an independent review of an adverse outcome of a grievance procedure of a managed care entity. The request must include the name and address of the eligible enrollee, and/or the name and address of the eligible enrollee's guardian in the case of a minor, the eligible enrollee's legal guardian in the case of an eligible enrollee's incapacity, and/or the eligible enrollee's representative. The written request must also include a copy of the notification to the eligible enrollee, or the eligible enrollee's applicable representative, of the adverse outcome determination of the grievance procedure of the managed care entity involved.

(3) Upon receipt of a written request by an eligible enrollee or the eligible enrollee's applicable representative made in accordance with these Rules as outlined above, the Department shall, no later than three (3) working days after receipt, notify the eligible enrollee, or the eligible enrollee's applicable representative, of receipt of the request and assign the request to an independent review organization on a rotating basis according to the date the request was received in accordance with these Rules as outlined below.

(4) Upon assignment of a request for independent review to an independent review organization, the Department shall provide written notification of the name and address of the assigned organization to both the requesting eligible enrollee, or the eligible enrollee's applicable representative, and the managed care entity.

Cite as Ga. Comp. R. & Regs. R. 120-2-111-.05

AUTHORITY: O.C.G.A. §§ 33-2-9**,** 33-20A-41**.**

HISTORY: Original Rule entitled "Procedure for Request for Independent Review" adopted. F. Sept. 20, 2023; eff. August 1, 2023, as specified by the Agency.

120-2-111-.06 The Conduct of the Review by the Independent Review Organization

(1) Within three working days of receipt of notice from the Department of assignment of the request for independent review, the managed care entity shall submit to that organization the following:

(a) Any information submitted to the managed care entity by the eligible enrollee or his/her provider in support of the eligible enrollee's grievance procedure filing;

(b) A copy of the contract provisions or evidence of coverage of the managed care plan, including the entire contract or policy; and

(c) Any other relevant documents or information used by the managed care entity in determining the outcome of the eligible enrollee's grievance.

(2) Upon request, the managed care entity shall provide a copy of all documents required by these Rules, except for any proprietary or privileged information, to the eligible enrollee, or the eligible enrollee's applicable representative. The eligible enrollee, or the eligible enrollee's applicable representative, may provide the independent review organization with any additional information the eligible enrollee may deem relevant. Proprietary or privileged information shall not include screening criteria or any procedure, studies, documents, communications, or any other information used by the managed care entity in making a determination in the eligible enrollee's case.

(3) The independent review organization shall request any additional information required for the review from the managed care entity and the eligible enrollee, or the eligible enrollee's applicable representative, within five working days of receipt of the documentation required under these Rules as outlined above. Any additional information requested by the independent review organization shall be submitted within five working days of receipt of the request, or an explanation of why the additional information is not being submitted shall be provided. In no case shall a managed care entity or an eligible enrollee, or an eligible enrollee's applicable representative, receive any more than an extension of ten working days to submit the required additional information. It shall not be grounds for a managed care entity to refuse to supply or to delay submission to the independent review organization any medical record based on an assertion by the managed care entity, or a provider or facility with which the managed care entity has a contract, that said records are then incomplete or un-reviewed.

(4) Additional information obtained from the eligible enrollee, or the eligible enrollee's applicable representative, shall be transmitted to the managed care entity, which may determine that such additional information justifies a reconsideration of the outcome of the grievance procedure. A decision by the managed care entity to cover fully the treatment in question upon reconsideration using such additional information shall terminate independent review. The managed care entity shall notify the eligible enrollee, or the eligible enrollee's representative, the Department, and the independent review organization when such a decision is made. Upon such notification, the independent review organization shall not terminate its review until it has determined that the managed care entity's decision constitutes full coverage of the treatment in question. If the independent review organization determines that the managed care entity's decision does not constitute full coverage of the treatment in question, the eligible enrollee shall not be required to make a new request for independent review, and the managed care entity shall be bound by the entire independent review process both before and after any decision it made to offer coverage.

(5) The expert reviewer of the independent review organization shall make a determination within 15 working days after expiration of all additional information time limits set forth in these Rules, but such time limits may be extended or shortened by mutual agreement between the eligible enrollee, or the eligible enrollee's applicable representative, and the managed care entity subject to the provisions outlined above. The determination by the expert reviewer of the independent review organization shall be in writing and shall state the basis of the reviewer's decision. The determination shall contain the specific findings of fact, regulation, and policy, the basis and reasons thereof, and copies of the documents, studies, and all other information utilized and relied upon by the expert reviewer and the independent review organization in reaching its determination. A copy of the decision shall be delivered to the managed care entity, the eligible enrollee, the eligible enrollee's applicable representative, and the Department by Certified Mail, Return Receipt Requested.

(6) The independent review organization's decision shall be based upon a review of the information and documentation submitted to it.

(7) Information required or authorized to be provided pursuant to these Rules may be provided by facsimile transmission, and/or electronic mail if feasible for both sender and receiver. For purpose of any time deadline for the receipt of information in accordance with these Rules and the Act, the date of receipt by mail shall be the postmark date on the item(s) being sent, however this provision with regard to mailing does not supersede any applicable time deadline heretofore specified in the Act or these Rules.

(8) In the event that, in the judgment of the treating health care provider, the health condition of the eligible enrollee is such that following the procedure provisions outlined herein would jeopardize the life or health of the eligible enrollee or the eligible enrollee's ability to regain maximum function, as determined by the treating health care provider, an expedited review shall be available. The expedited review process shall encompass all applicable provisions outlined in these Rules, provided, however, that a decision by the expert reviewer shall be rendered within 72 hours (three calendar days) after the expert reviewer's receipt of all available requested documentation.

Cite as Ga. Comp. R. & Regs. R. 120-2-111-.06

AUTHORITY: O.C.G.A. §§ 33-2-9**,** 33-20A-41**.**

HISTORY: Original Rule entitled "The Conduct of the Review by the Independent Review Organization" adopted. F. Sept. 20, 2023; eff. August 1, 2023, as specified by the Agency.

120-2-111-.07 Independent Review Organization Decision

(1) The expert reviewer of the independent review organization shall make a determination as to whether a treatment is experimental based upon the following criteria:

(a) Whether such treatment has been approved by the federal Food and Drug Administration; or

(b) Whether medical and scientific evidence demonstrates that the expected benefits of the proposed treatment would be greater than the benefits of any available standard treatment and that the adverse risks of the proposed treatment will not be substantially increased over those of standard treatments.

(c) For either determination, the expert reviewer shall apply prudent professional practices and shall assure that at least two documents of medical and scientific evidence support the decision. The expert reviewer shall take into account evidence and opinions of practitioners in the field who are experts in the treatment proposed to be offered.

(2) In making a decision as to whether a treatment is medically necessary or appropriate, the expert reviewer shall use the definition of medical necessity, medically necessary care, and medically necessary and appropriate, as defined in these Rules and the Act. Criteria must be objective, clinically valid, compatible with established principles of health care, and flexible enough to allow deviations from the norms when justified on a case-by-case basis.

Cite as Ga. Comp. R. & Regs. R. 120-2-111-.07

AUTHORITY: O.C.G.A. §§ 33-2-9**,** 33-20A-41**.**

HISTORY: Original Rule entitled "Independent Review Organization Decision" adopted. F. Sept. 20, 2023; eff. August 1, 2023, as specified by the Agency.

120-2-111-.08 Independent Review Organization Telephone Access

(1) An independent review organization shall have appropriate personnel reasonably available by telephone, in accordance with Eastern Standard or Eastern Daylight time, whichever is applicable, at least forty (40) hours per week during normal business hours, to discuss eligible enrollee's care and to allow response to telephone questions. The independent review organization must also allow reasonable telephone access on evenings and weekends.

(2) An independent review organization must have a telephone system capable of accepting or recording or providing instructions to incoming calls during other than normal business hours and shall respond to such calls not later than two working days of the later of the date on which the call was received or the date the details necessary to respond have been received from the caller. The independent review organization shall request the specific information needed from the caller not later than two working days after initial receipt of the call in question. In the event of an emergency, the independent review organization shall respond within the time appropriate to circumstances relating to the delivery of the services and the condition of the eligible enrollee.

Cite as Ga. Comp. R. & Regs. R. 120-2-111-.08

AUTHORITY: O.C.G.A. §§ 33-2-9, 33-20A-41.

HISTORY: Original Rule entitled "Independent Review Organization Telephone Access" adopted. F. Sept. 20, 2023; eff. August 1, 2023, as specified by the Agency.

120-2-111-.09 Independent Review Organization Confidentiality Provisions

(1) An independent review organization, and all agents, contractors, and employees thereof, shall preserve the confidentiality of individual medical records and personal information to the extent required by law and by the doctor-patient relationship.

(2) An independent review organization may not disclose or publish individual medical records or other confidential information about an eligible enrollee without the prior written consent of the eligible enrollee or as otherwise required by law. An independent review organization may provide confidential information to a third party under contract or affiliated with the independent review organization for the sole purpose of performing or assisting with independent review. Information provided to third parties shall remain confidential.

(3) The independent review organization may not publish data which identifies a particular physician or health care provider, or particular health benefit plan or managed care entity, including any quality review studies or performance tracking data, without prior written notice to the involved provider, plan, or entity. This prohibition does not apply to internal systems or reports used by the independent review organization.

(4) All patient, physician, health care provider, and health benefit plan data shall be maintained by the independent review organization in a confidential manner which prevents unauthorized disclosure to third parties. Nothing in this chapter shall be construed to allow an independent review organization to take actions that violate a state or federal statute or regulation concerning confidentiality of eligible enrollee records.

(5) To assure confidentiality, an independent review organization must, when contacting a physician's or provider's office, or hospital, provide its certification number and the caller's name and professional qualifications to the provider or the provider's named independent review representative.

(6) The independent review organization's procedures shall specify that specific information exchanged for the purpose of conducting review will be considered confidential, be used by the independent review organization solely for the purposes of independent review, and be shared by the independent review organization with only those third parties who have authority to receive such information. The independent review organization's plan shall specify the procedures that are in place to assure confidentiality and that the independent review organization agrees to abide by any federal and state laws governing the issue of confidentiality. Summary data that does not provide sufficient information to allow identification of individual eligible enrollees, providers, or health benefit plans need not be considered confidential.

(7) Medical records and eligible enrollee-specific information shall be maintained by the independent review organization in a secure area with access limited to essential personnel only.

(8) Destruction of documents in the custody of the independent review organization that contain confidential eligible enrollee information or physician or health care provider financial data shall be by a method which ensures complete destruction of the information, when the organization determines that the information is no longer needed.

Cite as Ga. Comp. R. & Regs. R. 120-2-111-.09

AUTHORITY: O.C.G.A. §§ 33-2-9**,** 33-20A-41**.**

HISTORY: Original Rule entitled "Independent Review Organization Confidentiality Provisions" adopted. F. Sept. 20, 2023; eff. August 1, 2023, as specified by the Agency.

120-2-111-.10 Complaints and Inquiries Regarding Conduct of Independent Review Organizations

(1) Complaints to the Department. Within a reasonable time period, upon receipt of a written complaint alleging a violation of these Rules or the Act by an independent review organization from an eligible enrollee's health care provider, a person acting on behalf of the eligible enrollee, the eligible enrollee, or a managed care entity, the Department shall investigate the complaint and furnish a written response to the complainant and the independent review organization named.

(2) Authority of the Department to make inquiries. In addition to the authority of the Department to respond to complaints described in subsection (a) of this section, the Department is authorized to address inquiries to any independent review organization in relation to the organization's business condition or any matter connected with its transactions which the Department may deem necessary for the public good or for a proper discharge of its duties. It shall be the duty of the independent review organization to promptly answer such inquiries in writing, and in all cases within thirty days of the request for response.

Cite as Ga. Comp. R. & Regs. R. 120-2-111-.10

AUTHORITY: O.C.G.A. §§ 33-2-9**,** 33-20A-41**.**

HISTORY: Original Rule entitled "Complaints and Inquiries Regarding Conduct of Independent Review Organizations" adopted. F. Sept. 20, 2023; eff. August 1, 2023, as specified by the Agency.

120-2-111-.11 On-Site Inspections by the Department

(1) The Department is authorized to make examinations concerning the quality, availability, accessibility, and performance of independent review services as often as is deemed necessary.

(2) A representative of the Department is authorized to visit the administrative offices or any branch office of each independent review organization annually, or as frequently as necessary, during normal business hours, to review the books and operations of the independent review organization.

(3) The independent review organization must make available during such on-site visits the following documents:

(a) the minutes of the applicant's organizational meetings, indicating the time of each meeting and the date;

(b) a list of and information regarding physicians and other providers to be used by the independent review organization as follows:

1. for physicians, indicate:

(i) medical specialty;

(ii) board certification, if any;

(iii) state license number;

(iv) business address; and

(v) any professional association or other medical group with whom physicians are affiliated;

2. for other providers, indicate:

(i) address; and

(ii) license or certification, if applicable;

(iii) any other records concerning the operation of the independent review organization.

Cite as Ga. Comp. R. & Regs. R. 120-2-111-.11

AUTHORITY: O.C.G.A. §§ 33-2-9**,** 33-20A-41**.**

HISTORY: Original Rule entitled "On-Site Inspections by the Department" adopted. F. Sept. 20, 2023; eff. August 1, 2023, as specified by the Agency.

120-2-111-.12 Violations by Independent Review Organizations

(1) If the Department believes that any person conducting independent review is in violation of the Act, or these Rules, the Department shall notify the independent review organization of the alleged violation and may compel the production of any and all documents or other information as necessary to determine whether or not such violation has taken place.

(2) The Department may initiate appropriate proceedings in accordance with the Act and these Rules.

(3) The Department shall be the party bringing any action pursuant to these Rules.

(4) If the independent Hearing Officer determines that the independent review organization has violated or is violating any provision of the Act or these Rules, the Hearing Officer may:

(a) impose sanctions with regard to the assignment of review requests to the independent review organization;

(b) require the independent review organization to cease and desist from the action(s) found to be in violation of the Act or these Rules; and/or

(c) revoke or suspend the certification of an independent review organization.

(5) The commission of fraudulent or deceptive acts or omissions in obtaining, attempting to obtain, or use of certification or designation as an Independent Review Organization is a violation of Chapter 20A of Title 33 of the Official Code of Georgia Annotated.

Cite as Ga. Comp. R. & Regs. R. 120-2-111-.12

AUTHORITY: O.C.G.A. §§ 33-2-9, 33-20A-41.

HISTORY: Original Rule entitled "Violations by Independent Review Organizations" adopted. F. Sept. 20, 2023; eff. August 1, 2023, as specified by the Agency.

120-2-111-.13 Fees for Independent Review

(1) Any reviews which involve either a Medical Doctor or a Doctor of Osteopathy will be tier-one reviews with a flat fee of $ 1,500.

(2) All other type of reviews shall be tier-two reviews with a flat fee of $ 1,000.

(3) The fees referenced above shall be the flat rate for the applicable type of review, and the independent review organizations may also bill the managed care entities for their costs incurred in the review. Such costs are intended to include such items as photocopying, facsimile, postage, package delivery, and courier costs.

(4) Independent review organizations shall bill the managed care entity directly for the fees and costs of independent review.

(5) Managed Care Entities shall pay independent review organizations directly within 30 days of receipt of an invoice.

(6) Failure to Pay Invoice. Failure by a managed care entity to pay invoices from independent review organization within 30 days of receipt shall constitute a violation subject to the penalty referenced under the Act, and codified at O.C.G.A. § 33-20A-35.

Cite as Ga. Comp. R. & Regs. R. 120-2-111-.13

AUTHORITY: O.C.G.A. §§ 33-2-9**,** 33-20A-41**.**

HISTORY: Original Rule entitled "Fees for Independent Review" adopted. F. Sept. 20, 2023; eff. August 1, 2023, as specified by the Agency.

120-2-111-.14 Assignment of Requests for Independent Review

(1) The Department shall assign each request for independent review to an independent review organization.

(2) Independent review organizations shall be added to the list from which assignments for independent review are made in order of the date of certification by the Department.

(3) Assignment shall be made chronologically from the list of independent review organizations with ultimate assignment being to the first in line with no apparent conflicts of interest.

(4) Non-selection for presence of conflicts of interest does not move the independent review organization to the bottom of the list. Such independent review organization retains its chronological position until selected for independent review.

Cite as Ga. Comp. R. & Regs. R. 120-2-111-.14

AUTHORITY: O.C.G.A. §§ 33-2-9**,** 33-20A-41**.**

HISTORY: Original Rule entitled "Assignment of Requests for Independent Review" adopted. F. Sept. 20, 2023; eff. August 1, 2023, as specified by the Agency.

Department 120. OFFICE OF COMMISSIONER OF INSURANCE, SAFETY FIRE COMMISSIONER AND INDUSTRIAL LOAN COMMISSIONER

Chapter 120-3. RULES OF SAFETY FIRE COMMISSIONER

Subject 120-3-26. RULES AND REGULATIONS FOR BOILERS AND PRESSURE VESSELS

120-3-26-.22 Exceptions

(1) Boilers and pressure vessels exempted from the requirements of the Safety Act. The following is in addition to the exceptions listed in O.C.G.A. Section 25-15-16.

(2) Espresso coffee and similar machine boilers, providing these boilers meet the following requirements:

(a) The boilers shall be manufactured and tested to a National Standard, and

(b) shall not be more than (3) three U.S. gallons in size, and

(c) shall not operate more than 15 pounds per square inch, (PSI) and have a safety relief valve set to relieve at or below 15 psig.

(d) The boiler shall not be repaired by welding.

(3) Boilers with outlets open to the atmosphere when there are no valves or restriction in the outlet system and pressure cannot rise to above 0 psig at maximum operating condition and temperature cannot rise above 212 degrees Fahrenheit.

(4) Hot water supply heaters with storage capacity of six gallons or less and 400,000 BTU/hr. or less used for spas or swimming pools with open systems (unrestricted flow) shall meet all requirements of an adopted standard and ASME CSD-1 as applicable for construction, installation, repairs, or alterations.

(5) Soft-walled hyperbaric chambers for pressures less than 5 psi, and which are composed of an airtight bag which is zipped shut with a person inside and inflated using only ambient air. A soft-walled hyperbaric chamber must have at least two relief valves.

Cite as Ga. Comp. R. & Regs. R. 120-3-26-.22

AUTHORITY: O.C.G.A. § 25-15-13**.**

HISTORY: Original Rule entitled "Exceptions" adopted. F. Dec. 31, 2020; eff. Jan. 20, 2021.

Amended: F. Sept. 1, 2023; eff. Aug. 1, 2023, as specified by the Agency.

Department 391. RULES OF GEORGIA DEPARTMENT OF NATURAL RESOURCES

Chapter 391-3. ENVIRONMENTAL PROTECTION

Subject 391-3-5. RULES FOR SAFE DRINKING WATER

391-3-5-.07 Wells

(1) **Approval**. No person shall construct a well as a source of water supply for a public water system without having first obtained approval from the Division. This requirement may be waived by the Director during emergency situations. Any well that is constructed and does not meet the rules of this Chapter shall not later be used as a drinking water source for a public water system.

(2) **Prohibited Wells**. Dug, bored, or jetted wells are prohibited for all new public water systems.

(3) **Protection from Contamination**. Each well must be protected from contamination by surface waters and other sources of contamination. The location of wells must be in compliance with the latest edition of the Division's "Minimum Standards for Public Water Systems."

(4) **Fill, Plug and Seal**. Whenever a bore hole of any depth is excavated for, but not used as a source of water supply it shall be the supplier's responsibility to fill, plug and seal the hole within thirty (30) days of the excavation in a manner approved by the Division to restore as nearly as possible the natural earth condition existing before the hole was excavated and to protect against contamination of the ground water. This paragraph shall not apply where some other use is made of the ground water from the well hole.

(5) **Well Construction Standards**. All wells must be constructed as hereinafter provided, however, deviations from these rules may be permitted or required by the Division due to the variable conditions of the subsurface and ground water quality in a specific area.

(a) Drilling fluids must be from an uncontaminated source or must be disinfected.

(b) All permanent casing, liners, screens and other manufactured material used in the well installation must be new and adequate to protect the well against entrance of contaminants during the expected life of the well. All casing and liner pipe joints shall be water tight the entire length in drilled wells.

1. Steel pipe well casing shall conform to American Society for Testing and Materials (ASTM) Specification A 53, American Petroleum Institute (API) Specification 5L, or equal standard, and meet the following minimum wall thickness unless otherwise approved by the Division.

Nominal Casing Diameter (inches)	Minimum Wall Thickness (inches)
4*	0.188
5*	0.188
6	0.280
8	0.322
10	0.365
12	0.375
14	0.375
16	0.375
18	0.375
20	0.375
24	0.500

Nominal Casing Diameter (inches)	Minimum Wall Thickness (inches)
26	0.500

* not recommended for use in corrosive or high alkalinity water

2. The use of plastic well casing and screens must be approved by the Division prior to well installation. The well casing and couplings shall meet the requirements of the ASTM Standard F 480 or equal standard and the National Sanitation Foundation for use with potable water. When approved for use by the Division, plastic well casing shall conform to the following minimum wall thickness. However, plastic well casing diameters of 12 inches or greater or deep wells may require greater wall thickness to meet the collapse strength requirements.

Nominal Casing Diameter (inches)	Minimum Wall Thickness (inches)
4	0.265
4.5	0.291
6	0.390
8	0.508
10	0.632
12	0.750

Plastic well casing and screen shall not extend to a depth of greater than 300 feet below the ground surface.

(c) The outer, permanent, protective casing shall extend at least five (5) feet into the first solid, unweathered or impervious subsurface rock strata encountered, and shall have a minimum length of twenty-five (25) feet from the ground surface into a well excavated into water-bearing formations in crystalline rocks and fifty (50) feet in a well excavated into sedimentary water-bearing formations. The outer, permanent, protective casing shall be cement grouted its entire length with a cement slurry consisting of not more than six (6) gallons of water to one cubic foot cement, plus standard additives, when necessary, to facilitate placing or setting and shall be placed under pressure from the bottom of the annular space to be grouted upward until the grout is extruded at the earth's surface. The wall thickness of the cement grout surrounding the outer, permanent, protective casing shall be not less than one and one-half (1-1/2) inches at any point. Subsurface well construction shall cease for at least twenty-four (24) hours after grouting. Other grouting materials for sealing the annular space may be used upon the approval of the Division prior to well construction.

(d) Any ground water of unacceptable quality encountered during the well construction must be sealed off.

(e) The gravel for gravel-packed wells must be washed, free of organic matter, and composed of well rounded particles.

(6) **Stoppage During Construction**. During the periods of stoppage of the well construction and when the site is unattended, the drilling contractor must have the well opening securely covered to prevent tampering and possible contamination.

(7) **Sanitary Conditions**. During the well construction, the premises, construction material, tools and equipment must be maintained in a sanitary manner to prevent contamination of the well by the person excavating the well.

(8) **Proper Well Development**. Every well must be properly developed, disinfected, and pump tested by the drilling contractor. The well must be test pumped at not less than the desired yield for a period of at least twenty-four (24) hours and shall continue for at least four (4) hours after the pumping level has stabilized. The static water level, drawdown and pumping water level must be measured.

(9) **Disinfection of the Well**.

(a) The well must be disinfected prior to the pumping test by the introduction of a chlorine solution into the well under sufficient pressure to overcome the natural flow pressures of all developed water-bearing zones, and in

sufficient quantity to produce a minimum chlorine residual of fifty (50) parts per million in six (6) hours after such application.

(b) After disinfection, the well must be pumped until no trace of chlorine remains in the water, and water samples taken for microbiological analysis. No water may be furnished for human consumption until samples of water are collected by the supplier, and submitted to the Division for microbiological examination, and the quality of the water approved by the Division. If the water samples submitted are found to be unsatisfactory, the disinfection procedure must be repeated as required by the Division.

(c) The permanent pump and pumping equipment shall be disinfected with a chlorine solution prior to being placed into service.

(d) Well disinfection shall be conducted in accordance with American Water Works Association (AWWA) Standard C654.

(10) **Licensed Water Well Contractor**. The person constructing the well shall be a licensed water well contractor in the State of Georgia in accordance with the provisions of the Water Well Standards Act of 1985 (O.C.G.A. § 12-5-120, et. seq.). The contractor must maintain accurate driller logs, material setting and grouting data, complete results of the pump test, including water level measurements, and must furnish a signed copy of the results to the owner and to the Division on forms provided by the Division.

(11) **Installation Standards**. A well used as a source of water supply must include the following:

(a) A concrete slab with a minimum thickness of six (6) inches shall be constructed around the well casing and shall extend at least two (2) feet in all directions, and slope away, from the casing.

(b) The well casing shall extend at least twelve (12) inches above the concrete slab of the floor.

(c) For submersible pump installations, the well casing shall be provided with a sealed cover plate and, when required by the Division, vented by a screened riser pipe so that the screened opening terminated downward at least twelve (12) inches above the top of the casing or ground level.

(d) For turbine pump installations, a concrete block to support the pump motor shall be constructed around the outer well casing and shall extend at least twelve (12) inches above the concrete slab, and:

1. the outer casing shall extend at least one (1) inch above the pump motor block;

2. the well head and pump base shall be sealed to prevent seepage and the casing shall be vented by a screened riser pipe so that the screen opening terminates downward and above any point of back flow of contaminants into the well; and

3. oil lubricated vertical turbine pumps shall be lubricated with an acceptable turbine oil as prescribed by the pump manufacturer.

(e) A raw water sampling tap shall be installed prior to the well discharge pipe check valve.

(f) An access port of not less than five-eights (5/8) inch in diameter, with screw cap, for water level measurements; a deep well air line and gage may also be used in conjunction with the access port.

(12) **Deepening Existing Wells**. Existing wells that are deepened shall be regarded by the Division as a development of a new ground water source and must meet the requirements for approval.

(13) **Rehabilitating Existing Wells**. When an existing well is rehabilitated or reworked, the well shall be disinfected according to procedures described in this Rule.

(14) **Infrastructure Security**. The pumping and water treatment equipment shall be protected from unauthorized entry and use by an enclosed shelter or enclosed by a fence. In addition, the water treatment equipment shall be enclosed in a weather proof shelter.

Cite as Ga. Comp. R. & Regs. R. 391-3-5-.07

AUTHORITY: Ga. L. 1977, p. 351, *et seq*., O.C.G.A. § 12-5-170 *et seq*., as amended.

HISTORY: Original Rule entitled "General Plan Map Requirements" was filed on September 6, 1973; effective September 26, 1973.

Amended: Rule repealed and a new Rule entitled "Wells" adopted. Filed July 5, 1977; effective July 26, 1977, as specified by Rule 391-3-5-.47.

Amended: Filed July 15, 1983; effective August 4, 1983.

Amended: F. May 12, 1989; eff. June 1, 1989.

Amended: F. Sept. 26, 1997; eff. Oct. 16, 1997.

Amended: F. Jan. 8, 2014; eff. Jan. 28, 2014.

Amended: F. Apr. 22, 2021; eff. May 12, 2021.

Amended: F. Sept. 14, 2023; eff. Oct. 4, 2023.

391-3-5-.25 Treatment Techniques, Lead and Copper Requirements

(1) **General Requirements**.

(a) These requirements constitute the primary drinking water rules for lead and copper. Unless otherwise indicated, each of these provisions applies to community water systems and non-transient, non-community water systems (hereinafter referred to as "water systems" or "systems").

(b) These rules establish a treatment technique that includes requirements for corrosion control treatment, source water treatment, lead service line replacement, and public education. These requirements are triggered, in some cases, by lead and copper action levels measured in samples collected at consumers' taps.

(c) Lead and copper action levels:

1. The lead action level is exceeded if the concentration of lead in more than 10 percent of tap water samples collected during any monitoring period conducted in accordance with paragraph (7) is greater than 0.015 mg/L.

2. The copper action level is exceeded if the concentration of copper in more than 10 percent of tap water samples collected during any monitoring period conducted in accordance with paragraph (7) is greater than 1.3 mg/L.

3. Calculation of the lead and copper action levels shall be based on the "90th percentile" rule in accordance with 40 CFR § 141.80(c)(3).

(d) Corrosion control treatment requirements:

1. All water systems shall install and operate optimal corrosion control treatment as defined in Rule 391-3-5-.02(73).

2. Any water system that complies with the applicable corrosion control treatment requirements specified by the Division under paragraphs (2) and (3) shall be deemed in compliance with the treatment requirement contained in paragraph (d)(1).

(e) Source water treatment requirements; Any system exceeding the lead or copper action level shall implement all applicable source water treatment requirements specified by the "Division" under paragraph (4).

(f) Lead service line replacement requirements; Any system exceeding the lead action level after implementation of applicable corrosion control and source water treatment requirements shall complete the lead service replacement requirements contained in paragraph (5).

(g) Public education requirements; Pursuant to 40 CFR § 141.85, all water systems must provide a consumer notice of lead tap water monitoring results to persons served at the sites/taps that are tested. Any system exceeding the lead action level shall implement the public education requirements contained in paragraph (6).

(h) Monitoring and analytical requirements; Tap water monitoring for lead and copper, monitoring for water quality parameters, source water monitoring for lead and copper, and analyses of the monitoring results under this subpart shall be completed in compliance with paragraphs (7) - (10).

(i) Reporting requirements; Systems shall report to the Division any information required by the treatment provisions of this subpart and Rule 391-3-5-.30(7).

(j) Record keeping requirements; Systems shall maintain records in accordance with Rule 391-3-5-.15.

(k) Violation of national primary drinking water regulations; Failure to comply with the applicable requirements of paragraphs (1) - (10), including requirements established by the Division pursuant to the provisions, shall constitute a violation of the national primary drinking water regulations for lead and/or copper.

(l) The maximum contaminant level goals (MCLGs) for lead and copper are as follows:

Contaminant	**MCLG (mg/L)**
Copper	1.3
Lead	0 (zero)

(2) **Applicability of Corrosion Control Treatment Steps to Small, Medium and Large Water Systems**.

(a) Systems shall complete the applicable corrosion control treatment requirements described in paragraph (3) by the deadlines established in this paragraph.

1. A large system (serving more than 50,000 persons) shall complete the corrosion control treatment steps specified in paragraph (2)(d), unless it is deemed to have optimized corrosion control under paragraphs (2)(b)2. or (2)(b)3..

2. A small system (serving less than 3,301 persons) and a medium-size system (serving more than 3,300 and less than 50,001 persons) shall complete the corrosion control treatment steps specified in paragraph (2)(d), unless it is deemed to have optimized corrosion control under paragraphs (2)(b)1., (2)(b)2., or (2)(b)3..

(b) A system is deemed to have optimized corrosion control and is not required to complete the applicable control treatment steps identified in this section if the system satisfies one of the criteria specified in paragraphs (2)(b)1. through (2)(b)3.. Any such system deemed to have optimized corrosion control under this paragraph, and which has treatment in place, shall continue to operate and maintain optimal corrosion control treatment and meet any requirements that the State determines appropriate to ensure optimal corrosion control treatment is maintained.

1. A small or medium-size water system is deemed to have optimized corrosion control if the system meets the lead and copper action levels during each of two consecutive six-month monitoring periods conducted in accordance with paragraph (7).

2. Any water system may be deemed by the Division to have optimized corrosion control treatment if the system demonstrates to the satisfaction of the Division that it has conducted activities equivalent to the corrosion control

steps applicable to such system under this rule. If the Division makes this determination, it shall provide the system with written notice explaining the basis for its decision and shall specify the water quality control parameters representing optimal corrosion control in accordance with paragraph (3). Water systems deemed to have optimized corrosion control under this paragraph shall operate in compliance with the Division designated optimal water quality control parameters in accordance with paragraph (3) and continue to conduct lead and copper tap water quality parameter sampling in accordance with paragraphs (7)(d) 3. and (8)(d). A system shall provide the Division with the following information in order to support a determination under this paragraph.

(i) the results of all test samples collected for each of the water quality parameters in paragraph (3).

(ii) a report explaining the test methods used by the water system to evaluate the corrosion control treatments listed in paragraph (3), the results of all tests conducted, and the basis for the system's selection of optimal corrosion control treatment.

(iii) a report explaining how corrosion control has been installed and how it is being maintained to insure minimal lead and copper concentrations at consumers' taps.

(iv) the results of tap water samples collected in accordance with paragraph (7) at least once every six months for one year after corrosion control has been installed.

3. Any water system is deemed to have optimized corrosion control if it submits results of tap water monitoring conducted in accordance with paragraph (7) and source water monitoring conducted in accordance with paragraph (9) that demonstrates for two consecutive six-month monitoring periods that the difference between the 90th percentile tap water lead level computed under paragraph (1)(c) 3., and the highest source water lead concentration, is less than the Practical Quantitation Level for lead specified in paragraph (10).

(i) Those systems whose highest source water lead level is below the Method Detection Limit may also be deemed to have optimized corrosion control under this paragraph if the 90th percentile tap water lead levels is less than or equal to the Practical Quantitation Level for the lead for two consecutive 6-month monitoring periods.

(ii) Any water system deemed to have optimized corrosion control in accordance with this paragraph shall continue monitoring for lead and copper at the tap no less frequently than once every three calendar years using the reduced number of sites specified in Rule 391-3-5-.25(7)(c) and collecting samples at times and locations specified in Rule 391-3-5-.25(7)(d) 4.

(iii) Any water system deemed to have optimized corrosion control pursuant to this paragraph shall notify the Division in writing pursuant to Rule 391-3-5-.25(11) of any upcoming long-term change in treatment or addition of a new source. The Division must review and approve the addition of a new source or long-term change in water treatment before it is implemented by the water system. The Division may require any system to conduct additional monitoring or to take other action the Division deems appropriate to ensure that such systems maintain minimal levels of corrosion in the distribution system.

(iv) As of July 12, 2001, a system is not deemed to have optimized corrosion control under this paragraph, and shall implement corrosion control treatment pursuant to paragraph (2)(b)3.(v) unless it meets the copper action level.

(v) Any system triggered into corrosion control because it is no longer deemed to have optimized corrosion control under this paragraph shall implement corrosion control treatment in accordance with the deadlines in paragraph (2)(d). Any such large system shall adhere to schedule specified in that paragraph for medium-size systems, with the time periods for completing each step being triggered by the date the system is no longer deemed to have optimized corrosion control under this paragraph.

(c) Any small or medium-size water system that is required to complete the corrosion control steps due to its exceedance of the lead or copper action level may request approval from the Division to cease completing the treatment steps if the system meets both lead and copper action levels during each of two consecutive monitoring periods conducted pursuant to paragraph (7) and submits the results to the Division. If approval is granted, any such water system thereafter exceeds the lead or copper action level during any monitoring period, the system (or the

Division, as the case may be) shall recommence completion of the applicable treatment steps, beginning with the first treatment step which was not previously completed in its entirety. The Division may require a system to repeat treatment steps previously completed by the system where the Division determines that this is necessary to implement properly the treatment requirements of this rule. The Division shall notify the water system in writing of such a determination and explain the basis for its decision. The requirement for any small- or medium-size water system to implement corrosion control treatment steps in accordance with paragraph (2)(d) (including, water systems deemed to have optimized corrosion control under paragraph (2)(b)1.) is triggered whenever any small- or medium-size water system exceeds the lead or copper action level.

(d) Treatment steps and deadlines for all systems affected by this rule shall be in accordance with 40 CFR § 141.81(d) and (e).

(3) **Description of Corrosion Control Treatment Requirements**. Each system shall complete the corrosion control treatment requirements as described and in accordance with 40 CFR § 141.82 and as approved by the Division.

(4) **Source Water Treatment Requirements**. Systems shall complete the applicable source water monitoring and treatment requirements, described in the referenced portions of paragraph (4)(b), and in paragraphs (7) and (9) by the following deadlines.

(a) Deadlines for Completing Source Water Treatment Steps.

1. Step 1: A system exceeding the lead or copper action level shall complete lead and copper source water monitoring (paragraph (9)(b)) and make a treatment recommendation to the Division (paragraph (4)(b) 1.) no later than 180 days after the end of the monitoring period in which the lead or copper action level was exceeded.

2. Step 2: The Division shall make a determination regarding source water treatment (paragraph (4)(b) 2.) within 6 months after submission of monitoring results under Step 1.

3. Step 3: If the Division requires installation of source water treatment, the system shall install the treatment (paragraph (4)(b) 3.) within 24 months after completion of Step 2.

4. Step 4: The system shall complete follow-up tap water monitoring for lead and copper (paragraph (7)(d) 2.) and source water monitoring for lead and copper (paragraph (9)(c)) within 36 months after completion of Step 2.

5. Step 5: The Division shall review the system's installation and operation of source water treatment and specify maximum permissible source water levels (paragraph (4)(b) 4.) within 6 months after completion of Step 4.

6. Step 6: The system shall operate in compliance with the Division specified maximum permissible lead and copper source water levels (paragraph (4)(b) 4.) and continue source water monitoring for lead and copper (paragraph (9)(d)).

(b) Description of Source Water Treatment Requirements:

1. System treatment recommendation. Any system which exceeds the lead or copper action level shall recommend in writing to the Division the installation and operation of one of the source water treatments listed in paragraph (4)(b)2.. A system may recommend that no treatment be installed based upon a demonstration that source water treatment is not necessary to minimize lead and copper levels at users' taps.

2. Division determination regarding source water treatment. The Division shall complete an evaluation of the results of all source water samples submitted by the water system to determine whether source water treatment is necessary to minimize lead or copper levels in water delivered to users' taps. If the Division determines that treatment is needed, the Division shall either require installation and operation of the source water treatment recommended by the system (if any) or require the installation and operation of another source water treatment such as: ion exchange, reverse osmosis, lime softening or coagulation/filtration. If the Division requests additional information to aid in its

review, the water system shall provide the information by the date specified by the Division in its request. The Division shall notify the system in writing of its determination and set forth the basis for its decision.

3. Installation of source water treatment. Each system shall properly install and operate the source water treatment designated by the Division under paragraph (4)(b)2..

4. Division review of source water treatment and specification of maximum permissible source water levels. The Division shall review the source water samples taken by the water system both before and after the system installs source water treatment, and determine whether the system has properly installed and operated the source water treatment designated by the Division. Based upon its review, the Division shall designate the maximum permissible lead and copper concentrations for finished water entering the distribution system. Such levels shall reflect the contaminant removal capability of the treatment properly operated and maintained. The Division shall notify the system in writing and explain the basis for its decision.

5. Continued operation and maintenance. Each water system shall maintain lead and copper levels below the maximum permissible concentrations designated by the Division at each sampling point monitored in accordance with paragraph (9). The system is out of compliance with this paragraph if the level of lead and/or copper at any sampling point is greater than the maximum permissible concentration designated by the Division.

6. Modification of Division treatment decisions. Upon its own initiative or in response to a request by a water system or other interested party, the Division may modify its determination of the source water treatment under paragraph (2), or maximum permissible lead and copper concentrations for finished water entering the distribution system under paragraph (4). A request for modification by a system or other interested party shall be in writing, explain why the modification is appropriate, and provide supporting documentation. The Division may modify its determination where it concludes that such change is necessary to ensure that the system continues to minimize lead and copper concentrations in source water. A revised determination shall be made in writing, set forth the new treatment requirements, explain the basis for the Division's decision, and provide an implementation schedule for completing the treatment modifications.

7. EPA may review treatment determinations made by the Division and issue federal treatment determinations as outlined in 40 CFR § 141.83(b)(7).

(5) **Lead Service Line Replacement Requirements**. Systems may be required to replace lead service lines in accordance with 40 CFR § 141.84 and 141.90(e) when they fail to meet the lead action level in tap samples. 40 CFR § 141.84 describes the conditions that will require lead service line replacement.

(6) **Public Educational and Supplemental Monitoring Requirements**. All water systems must deliver a consumer notice of lead tap water monitoring results to persons served by the water system at the sites/taps that are tested. A water system that exceeds the lead action level based on tap water samples collected in accordance with paragraph (7) shall carry out a public education program as described in 40 CFR § 141.85.

(7) **Monitoring Requirements for Lead and Copper in Tap Water**.

(a) Sample site location.

1. By the applicable date for commencement of monitoring under paragraph (7)(d)1., each water system shall complete a materials evaluation of its distribution system. In order to identify a pool of targeted sampling sites that meets the requirements of this rule, and which is sufficiently large to ensure that the water system can collect the number of lead and copper tap samples required in paragraph (7)(c). All sites from which first draw samples are collected shall be selected from this pool of targeted sampling sites. Sampling sites may not include faucets that have point-of-use or point-of-entry treatment devices.

2. A water system shall use the information on lead, copper, and galvanized steel that it is required to collect under Rule 391-3-5-.26(4) of this part [special monitoring for corrosivity characteristics] when conducting a materials evaluation. When an evaluation of the information collected pursuant to Rule 391-3-5-.26(4) is insufficient to locate the requisite number of lead and copper sampling sites that meet the targeting criteria in paragraph (7)(a)1., the

water system shall review the sources of information listed below in order to identify a sufficient number of sampling sites. In addition, the system shall seek to collect such information where possible in the course of its normal operations (e.g., checking service line materials when reading water meters or performing maintenance activities):

(i) all plumbing codes, permits, and records in the files of the building department(s) which indicate the plumbing materials that are installed within publicly and privately owned structures connected to the distribution system;

(ii) all inspections and records of the distribution system that indicate the material composition of the service connections that connect a structure to the distribution system; and

(iii) all existing water quality information, which includes the results of all prior analyses of the system or individual structures connected to the system, indicating locations that may be particularly susceptible to high lead or copper concentrations.

3. The sampling sites selected for a community water system's sampling pool ("tier 1 sampling sites") shall consist of single family structures that:

(i) contain copper pipes with lead solder installed after 1982 or contain lead pipes; and/or

(ii) are served by a lead service line. When multiple-family residences comprise at least 20 percent of the structures served by a water system, the system may include these types of structures in its sampling pool.

4. Any community water system with insufficient tier 1 sampling sites shall complete its sampling pool with "tier 2 sampling sites", consisting of buildings, including multiple-family residences that:

(i) contain copper pipes with lead solder installed after 1982 or contain lead pipes; and/or

(ii) are served by a lead service line.

5. Any community water system with insufficient tier 1 and tier 2 sampling sites shall complete its sampling pool with "tier 3 sampling sites", consisting of single family structures that contain copper pipes with lead solder installed before 1983. A community water system with insufficient tier 1, tier 2, and tier 3 sampling sites shall complete its sampling pool with representative sites throughout the distribution system. For the purpose of this paragraph, a representative site is a site in which the plumbing materials used at that site would be commonly found at other sites served by the water system.

6. The sampling sites selected for a non-transient non-community water system ("tier 1 sampling sites") shall consist of buildings that:

(i) contain copper pipes with lead solder installed after 1982 or contain lead pipes; and/or

(ii) are served by a lead service line.

7. A non-transient non-community water system with insufficient tier 1 sites that meet the targeting criteria in paragraph (7)(a)6 shall complete its sampling pool with sampling sites that contain copper pipes with lead solder installed before 1983. If additional sites are needed to complete the sampling pool, the non-transient non-community water system shall use representative sites throughout the distribution system. For the purpose of this paragraph, a representative site is a site in which the plumbing materials used at that site would be commonly found at other sites served by the water system.

8. Any water system whose sampling pool does not consist exclusively of tier 1 sites shall demonstrate to the Division under paragraph (11) why a review of the information listed in paragraph (7)(a)2. was inadequate to locate a sufficient number of tier 1 sites. Any community water system which includes tier 3 or other representative sampling sites in its sampling pool shall demonstrate why it was unable to locate a sufficient number of tier 1 and tier 2 sampling sites.

9. Any water system whose distribution system contains lead service lines shall draw 50 percent of the samples it collects during each monitoring period from sites that contain lead pipes, or copper pipes with lead solder, and 50 percent of those samples from sites served by a lead service line. A water system that cannot identify a sufficient number of sampling sites served by lead service line shall collect first draw samples from all of the sites identified as being served by such lines.

(b) Sample collection methods.

1. All tap samples for lead and copper collected in accordance with this subpart, with the exception of lead service line samples collected under paragraph (5), shall be first draw samples.

2. Each first-draw tap sample for lead and copper shall be one liter in volume and must have stood motionless in the plumbing system of each sampling site for at least six hours. First draw samples from residential housing shall be collected from the cold-water kitchen or bathroom sink tap. First-draw samples from a non-residential building shall be one liter in volume and shall be collected at an interior tap from which is typically drawn for consumption. First draw samples may be collected by the system or the system may allow residents to collect first draw samples after instructing the residents of the sampling procedures specified in this paragraph. To avoid problems of residents handling nitric acid, acidification of first-draw samples may be done up to fourteen (14) days after the sample is collected. After acidification to resolubilize the metals, the sample must stand in the original container for the time specified in the approved EPA method before the sample can be analyzed. If a system allows residents to perform sampling, the system may not challenge, based on alleged errors in sample collection, the accuracy of sampling results.

3. Each service line sample shall be one liter in volume and have stood motionless in the lead service line for at least six hours. Lead service line samples shall be collected in one of the following three ways:

(i) at the tap after flushing the volume of water between the tap and the lead service line. The volume of water shall be calculated based on the interior diameter and length of the pipe between the tap and the lead service line;

(ii) tapping directly into the lead service line; or

(iii) if the sampling site is a building constructed as a single-family residence, allowing the water to run until there is a significant change in temperature which would be indicative of water that has been standing in the lead service line.

4. A water system shall collect each first draw tap sample from the same sampling site from which it collected a previous sample. If, for any reason, the water system cannot gain entry to a sampling site in order to collect a follow-up tap sample or a particular site is no longer available, the system may collect the follow-up tap sample from another sampling site in its sampling pool as long as the new site meets the same targeting criteria, and is within reasonable proximity of the original site.

5. A non-transient non-community water system, or a community water system that meets the criteria of Rule 391-3-5-.25(7)(a) 3.-7. that does not have enough taps that can supply first-draw samples, as defined in Rule 391-3-5-.25(7)(b)2., must collect multiple samples from available sites/taps, provided the samples are collected at different times and/or on different days in order to meet the "first-draw"/6-hour minimum non-use time criteria.

(c) Number of samples.

Water systems shall collect at least one sample during each monitoring period specified in paragraph (7)(d) from the number of sites listed in the first column below ("# of Sites Standard Monitoring") of the table in this paragraph. A system conducting reduced monitoring under paragraph (7)(d)4. shall collect at least one sample from the number of sites specified in the second column ("# of Sites Reduced Monitoring") of the table in this paragraph during each monitoring period specified in paragraph (7)(d)4.. Such reduced monitoring sites shall be representative of the sites required for standard monitoring. States may specify sampling locations when a system is conducting reduced monitoring. The table is as follows:

System Size Population Served	Number of Sites Standard Monitoring	Number of Sites Reduced Monitoring
100,001 or more	100	50
10,001 to 100,000	60	30
3,301 to 10,000	40	20
501 to 3,300	20	10
101 to 500	10	5
100 or fewer	5	5

(d) Timing of monitoring.

1. Initial tap sampling: Two consecutive six-month periods, between January-June and between July-December.

(i) All large systems shall monitor at the required number of standard monitoring sites during two consecutive six-month periods.

(ii) All small and medium-size systems shall monitor at the required number of standard monitoring sites during each six-month monitoring period until:

(I) the system exceeds the lead or copper action level and is therefore required to implement the corrosion control treatment requirements under paragraph (2), in which case the system shall continue monitoring in accordance with paragraph (7)(d)2., or

(II) the system meets the lead or copper action levels during two consecutive six-month monitoring periods, in which case the system may reduce monitoring in accordance with paragraph (7)(d)4..

2. Monitoring after installation of corrosion control and source water treatment.

(i) Any large system which installs optimal corrosion control treatment pursuant to paragraph (2)(d) shall monitor during two consecutive six-month monitoring periods by the date specified in paragraph (2)(d).

(ii) Any small or medium-size system which installs optimal corrosion control treatment pursuant to paragraph (2) shall monitor during two consecutive six-month monitoring periods by the date specified in paragraph (2)(d).

(iii) Any system which installs source water treatment pursuant to paragraph (4)(a) 3. shall monitor during two consecutive six-month monitoring periods by the date specified in paragraph (4)(a) 4.

3. Monitoring after Division specifies water quality parameter values for optimal corrosion control. After the Division specifies the value for water quality control parameters under paragraph (3), the system shall monitor during each subsequent six-month monitoring period, with the first monitoring period to begin on the date the Division specifies the optimal values under paragraph (3).

4. Reduced monitoring.

(i) A small or medium-size water system that meets the lead and copper action levels during each of two consecutive six-month monitoring periods may reduce the number of samples in accordance with paragraph (7)(c), and reduce the frequency of sampling to once per year between the months of June and September of the calendar year immediately following the end of the second consecutive six-month monitoring period.

(ii) Any water system that meets the lead and copper action levels and maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the Division under paragraph (3) during each of two consecutive six-month monitoring periods may reduce the frequency of monitoring to once per year between the months of June and September and reduce the number of lead and copper samples in accordance with paragraph (7)(c) if it receives written approval from the division. This sampling shall begin during

the calendar year immediately following the end of the second consecutive six-month monitoring period. The Division shall review monitoring, treatment, and other relevant information submitted by the water system in accordance with paragraph (11) and shall notify the water system in writing when the Division determines the water system is eligible to commence reduced monitoring to once every three (3) years pursuant to this paragraph. The Division shall review, and where appropriate, revise its determination when the system submits new monitoring or treatment data, or when other data relevant to the number and frequency of tap sampling becomes available.

(iii) A small or medium-size water system that meets the lead and copper action levels during three consecutive years of monitoring may reduce the frequency of monitoring for lead and copper from annually to once every three years. Sampling must still occur between the months of June and September of the year in which monitoring is required. Any water system that meets the lead and copper action levels and maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the Division under paragraph (3) during three consecutive years of monitoring may reduce the frequency from annually to once every three years if it receives written approval from the Division. Samples collected once every three years must be collected no later than every third calendar year. The Division shall review monitoring, treatment, and other relevant information submitted by the water system in accordance with paragraph (11) and shall notify the system in writing when it determines the system is eligible to reduce the frequency of monitoring to once every three years. The Division shall review, and where appropriate, revise its determination when the system submits new monitoring or treatment data, or when other data relevant to the number and frequency of tap sampling becomes available.

(iv) A water system that reduces the number and frequency of sampling shall collect these samples from representative sites included in the original pool of targeted sampling sites identified in paragraph (7)(a)1. Systems sampling annually or less frequently shall conduct the lead and copper tap sampling during the months of June, July, August or September unless the Division has approved a different sampling period in accordance with paragraph (7)(d)4.(iv)(1).

(I) The Division, at its discretion, may approve a different period for conducting the lead and copper tap sampling for systems collecting a reduced number of samples. Such a period shall be no longer than four consecutive months and must represent a time of normal operation where the highest levels of lead are most likely to occur. For non-transient non-community water system that does not operate during the months of June, through September, and for which the period of normal operation where the highest levels of lead are most likely to occur is not known, the Division shall designate a period that represents a time of normal operation for the system. Any alternate reduced monitoring must meet criteria set forth in 40 CFR § 141.86(d)(4)(iv)(A).

(II) Systems monitoring annually, that have been collecting samples during the months of June through September and that receive Division approval to alter their sample collection period under paragraph (7)(d)4.(iv)(I), must collect their next round of samples during a time period that ends no later than 21 months after the previous round of sampling. Systems monitoring triennially that have been collecting samples during the months of June through September, and receive Division approval to alter the sampling collection period per paragraph (7)(d)4.(iv)(I), must collect their next round of samples during a time period that ends no later than 45 months after the previous round of sampling. Subsequent rounds of sampling must be collected annually or triennially, as requested by this rule. Small systems with waivers, granted pursuant to paragraph (7)(g), that have been collecting samples during the months of June through September and receive Division approval to alter their sample collection period under paragraph (7)(d)4.(iv)(I) must collect their next round of samples before the end of the 9-year period.

(v) Any water system that demonstrates for two consecutive 6- month monitoring periods that the tap water lead level computed under paragraph (1)(c) 3. is less than or equal to 0.005 mg/L and the tap water copper level computed under paragraph (1)(c) 3. is less than or equal to 0.65 mg/L may reduce the number in accordance with paragraph (3) and reduce the frequency of sampling to once every three calendar years.

(vi) (I) A small or medium-size water system subject to reduced monitoring that exceeds the lead or copper action level shall resume sampling in accordance with paragraph (7)(d)3. and collect the number of samples for standard monitoring under paragraph (7)(c). Such a system shall also conduct water quality parameter monitoring in accordance with 40 CFR § 141.87(b), (c) or (d) (as appropriate) during the monitoring period in which it exceeded the action level. Any such system may resume annual monitoring for lead and copper at the tap at the reduced

number of sites specified in paragraph (7)(c) after it has completed two consecutive six-month rounds of monitoring with no action level exceeded.

(II) Any water system subject to the reduced monitoring frequency that fails to meet the lead or copper action level during any four-month monitoring period or that fails to operate at or above the minimum value or within the range of values for the water quality parameters specified by the Division for more than nine days in any six-month monitoring period shall conduct tap water sampling for lead and copper at the frequency specified in paragraph (7)(d)3., collect the number of samples specified for standard monitoring under paragraph (c), and shall resume monitoring for water quality parameters within the distribution system in accordance with 40 CFR § 141.87(d). This standard tap water sampling shall begin no later than the six-month period beginning January 1 of the calendar year following the lead or copper action level exceedance or water quality parameter excursion. Such a system may resume reduced monitoring for lead and copper at the tap and for water quality parameters within the distribution system under the following conditions:

I. The system may resume annual monitoring for lead and copper at the tap at the reduced number of sites specified in paragraph (7)(c) after it has completed two consecutive six-month rounds of monitoring that meet both lead and copper action levels and the system has received written approval from the Division that it is appropriate to resume reduced monitoring on an annual frequency. This sampling shall begin during the calendar year immediately following the end of the second consecutive six-month monitoring period.

II. The system may resume triennial monitoring for lead and copper at the tap at the reduced number of sites after it demonstrates through subsequent rounds of monitoring that it meets the action level criteria for lead and copper and has received approval from the Division that it is appropriate to resume triennial monitoring.

III. The system may reduce the number of water quality parameter tap water samples required and the frequency with which it collects such samples in accordance with 40 CFR § 141.87(e)(1) and (2). Such a system may not resume triennial monitoring for water quality parameters at the tap until it demonstrates that it has re-qualified for triennial monitoring, in accordance with 40 CFR § 141.87(e)(2).

(vii) Any water system subject to a reduced monitoring frequency under paragraph (7)(d)(4) shall notify the Division in writing of any upcoming long-term change in treatment or addition of a new source as described in 40 CFR § 141.90(a)(3). The Division must review and approve the addition of a new source or long-term change in water treatment before it is implemented by the water system. The Division may require the system to resume sampling in accordance with paragraph (7)(d)3. and collect the number of samples specified for standard monitoring under paragraph (7)(c) or take other appropriate steps such as increased water quality parameter monitoring or re-evaluation of its corrosion control treatment given the potentially different water quality considerations.

(e) Additional monitoring by systems. The results of any monitoring conducted in addition to the minimum requirements of this section shall be considered by the system and the Division in making any determinations (i.e., calculating the 90th percentile lead or copper level) under this subpart or 40 CFR § 141.82.

(f) Invalidation of lead or copper tap water samples. A sample invalidated under this paragraph does not count toward determining lead or copper 90th percentile levels under paragraph (1)(c) or toward meeting the minimum monitoring requirements of paragraph (7)(c).

1. The Division may invalidate a lead or copper tap water sample if at least one of the following conditions is met.

(i) The laboratory establishes that improper sample analysis caused erroneous results.

(ii) The Division determines that the sample was taken from a site that did not meet the site selection criteria of this rule.

(iii) The sample container was damaged in transit.

(iv) There is substantial reason to believe that the sample was subject to tampering.

2. The system must report the results of all samples to the Division and all supporting documentation for samples the system believes should be invalidated.

3. To invalidate a sample under paragraph (7)(f)1., the decision and the rationale for the decision must be documented in writing. The Division may not invalidate a sample solely on the grounds that a follow-up sample result is higher or lower than that of the original sample.

4. The water system must collect replacement samples for any samples invalidated under this section if, after the invalidation of one or more samples, the system has too few samples to meet the minimum requirements of paragraph (7)(c). Any such replacement samples must be taken as soon as possible, but no later than 20 days after the date the Division invalidates the sample or by the end of the applicable monitoring period, whichever occurs later. Replacement samples taken after the end of the applicable monitoring period shall not be used to meet the monitoring requirements of a subsequent monitoring period. The replacement samples shall be taken at the same locations as the invalidated samples or, if that is not possible, at locations other than those already used for sampling during the monitoring period.

(g) Monitoring waivers for small systems. Any small system that meets the criteria of 40 CFR, § 141.86(g) may apply to the Division to reduce the frequency of monitoring for lead and copperin accordance with the requirements of 40 CFR § 141.86(g).

(8) **Monitoring Requirements for Water Quality Parameters**. All large water systems and all small and medium-size systems that exceed the lead or copper action level shall monitor water quality parameters in addition to lead and copper in accordance with this paragraph. The requirements of this paragraph are summarized in a table at the end of 40 CFR § 141.87.

(a) Systems will have to monitor water quality parameters at different locations.

1. Representative taps throughout the distribution system (system can use total coliform sample sites). The system should take into account the number of persons served, the different sources of water, the different treatment methods employed by the system, and seasonal variability.

2. Samples are to be collected of the treated water from each source before entry point to the distribution system. If the system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions (i.e., when water is representative of all sources being used).

3. Number of samples.

(i) Systems shall collect two tap samples for applicable water quality parameters during each monitoring period as described in paragraphs (8)(b) thru (8)(e). The following number of sites is required:

Distribution System Tap Sampling Requirements for Water Quality Parameters. (Other Than Lead and Copper)

System Size Population Served	Number of Distribution Sampling Sites Base Monitoring
100,001 or more	25
10,001 to 100,000	10
3,301 to 10,000	3
501 to 3,300	2
101 to 500	1
100 or fewer	1

(ii) Except as provided in paragraph (8)(c), systems shall collect two samples for each water quality parameter at each entry point to the distribution system during each monitoring period as described in paragraph (8)(b). During

each monitoring period specified in paragraphs (8)(c)-(8)(e), systems shall collect one sample for each applicable water quality parameter at each entry point to the distribution system.

(b) Initial Sampling - All large water systems shall measure the water quality parameters listed below at distribution system taps and at each entry point to the distribution system during each six-month monitoring period (specified in paragraph (7)(d) 1.).

1. pH;

2. alkalinity;

3. calcium;

4. conductivity;

5. orthophosphate, when an inhibitor containing phosphate is used;

6. silica, when an inhibitor containing silica is used;

7. Water temperature.

(c) Monitoring after installation of corrosion control. All large systems which install optimal corrosion control treatment according to paragraph (7)(d) 2.(i) shall measure water quality parameters at the locations and frequencies listed below during each six month monitoring period. All small or medium size systems which install optimal corrosion treatment shall conduct such monitoring during each six-month monitoring period specified in paragraph (7)(d) 2.(ii) only when the system exceeds the lead and copper action level.

1. At the required number of distribution system sites/taps, two samples every six months for:

(i) pH;

(ii) alkalinity;

(iii) orthophosphate, when an inhibitor containing phosphate is used;

(iv) silica, when an inhibitor containing silica is used;

(v) calcium;

2. At each entry point to the distribution system, one sample every two weeks for:

(i) pH;

(ii) when alkalinity is adjusted as part of optimal corrosion control, a reading of the dosage rate of the chemical used to adjust alkalinity, and the alkalinity concentration.

(iii) when a corrosion inhibitor is used as part of optimal corrosion control, a reading of the dosage rate of the inhibitor used, and the concentration of orthophosphate or silica.

(d) Monitoring after the Division specifies water quality parameter values for optimal corrosion control will be as follows. The Division will specify the values for applicable water quality control parameters reflecting optimal corrosion control treatment in accordance with 40 CFR § 141.82(f). All large systems shall measure the applicable water quality parameters in accordance with paragraph (8)(c) and determine compliance with the requirements of paragraph (7)(d) 3. every six months with the first six-month period to begin on January 1 or July 1, whichever comes first, after the Division specifies optimal values under 40 CFR § 141.82(f). Any small or medium-size system shall conduct such monitoring during each six-month period specified in this paragraph in which the system exceeds

the lead and/or copper action level(s). For any such small and medium-size system that is subject to a reduced monitoring frequency pursuant to 391-3-5-.25(7)(d) 4. at the time of the action level exceedance, the start of the applicable six-month period under this paragraph shall coincide with the start of the applicable monitoring period under paragraph(7)(d) 4. Compliance with the division-designated optimal water quality parameter values shall be determined as specified under paragraph (7)(d) 3.

(e) Reduced monitoring for water quality parameters.

1. Any water system that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment during each of two consecutive six-month monitoring periods under paragraph (8)(d) shall continue monitoring at the entry point(s) to the distribution system as specified in paragraph (8)(c)2.. Such system may collect two tap samples for applicable water quality parameters from the following reduced number of sites during each six-month monitoring period.

System Size Population Served	Number of Distribution Sampling Sites Reduced Monitoring
100,001 or more	10
10,001 to 100,000	7
3,301 to 10,000	3
501 to 3,300	2
101 to 500	1
100 or fewer	1

2. (i) Any water system that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the Division during three consecutive years of monitoring may reduce the frequency with which it collects the number of tap samples for applicable water quality parameters specified in paragraph (8)(e)1. from every six months to annually. This sampling begins during the calendar year immediately following the end of the monitoring period in which the third consecutive year of six-month monitoring occurs. Any water system that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the Division under 40 CFR § 141.82(f) or Rule 391-3-5-.25(3) during three consecutive years of annual monitoring under this paragraph may reduce the frequency with which it collects the number of tap samples for applicable water quality parameters from annually to every three years. This sampling begins no later than the third calendar year following the end of the monitoring period in which the third consecutive year of monitoring occurs.

(ii) A water system may reduce the frequency with which it collects tap samples for applicable water quality parameters specified in paragraph (8)(e)1. to every three years if it demonstrates during two consecutive monitoring periods that its tap water lead level at the 90th percentile is less than or equal to the practical quantitation limit (PQL) for lead specified in paragraph (10), that its tap water copper level is less than or equal to 0.65 mg/L for copper in paragraph (2)(c), and that it also has maintained the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the division under paragraph (2)(d). Monitoring conducted every three years must be done no later than every third calendar year.

3. A water system that conducts sampling annually shall collect these samples evenly throughout the year so as to reflect seasonal variability.

4. Any water system subject to reduced monitoring frequency that fails to operate at or above the minimum value within the range of values for the water quality parameters specified by the Division under paragraph (3) shall resume distribution system tap water sampling in accordance with the number and frequency requirements in paragraph (8)(d). Such a water system may resume annual monitoring for water quality parameters at the tap at the reduced number of sites specified under paragraph (8)(e) 1. after it has completed two subsequent consecutive six-month rounds of monitoring that meet the criteria of that paragraph or may resume triennial monitoring for water quality parameters at the tap at the reduced number of sites after the water system demonstrates through subsequent rounds of monitoring that the water system meets the criteria of either paragraphs (8)(e)2.(i) or (e)2.(ii) or both.

(f) Additional monitoring by systems must be approved by the Division.

(9) **Monitoring Requirements for Lead and Copper in Source Water**.

(a) Sample location, collection methods, and number of samples.

1. A water system that fails to meet the lead or copper action level on the basis of routine tap samples collected in accordance with paragraph (7) shall collect lead and copper source water samples in accordance with the requirements regarding sample location, number of samples, and collection methods specified in 40 CFR § 141.88(a)(1)(i)-(iv) and (A)-(B).

2. Where the results of sampling indicate an exceedance of maximum permissible source water levels established under paragraph (4)(b) 4., the Division may require that one additional sample be collected as soon as possible after the initial sample was taken (but not to exceed two weeks) at the same sampling point. If a Division-required confirmation sample is taken for lead or copper, then the results of the initial and confirmation sample shall be averaged in determining compliance with the Division-specified maximum permissible levels. Any sample value below the detection limit shall be considered to be zero. Any value above the detection limit but below the PQL shall either be considered as the measured value or be considered one-half the PQL.

(b) Monitoring frequency after system exceeds tap water action level. Any system that exceeds the lead or copper action level during routine tap water monitoring shall collect one source water sample from each entry point to the distribution system no later than six months after the end of the monitoring period during which the action level was exceeded. For monitoring periods that are annual or less frequent, the end of the monitoring period is September 30 of the calendar year in which sampling occurs, or if the Division has established an alternate monitoring period, the last day of that period.

(c) Monitoring frequency after installation of source water treatment. Any system which installs source water treatment pursuant to paragraph (4)(a) 2. shall collect an additional source water sample from each entry point to the distribution system during two consecutive six-month monitoring periods by the deadline specified in paragraph (4)(a) 4.

(d) Monitoring frequency after Division specifies maximum permissible source water levels or determines that source water treatment is not needed.

1. A system shall monitor at the frequency specified below in cases where the Division specifies maximum permissible source water levels under paragraph (4)(b) 4. or determines that the system is not required to install source water treatment under paragraph (4)(b) 2.

(i) A water system using only groundwater shall collect samples once during the three-year compliance period (as that term is defined in Rule 391-3-5-.02) in effect when the applicable Division determination under paragraph (9)(d)1. is made. Such systems shall collect samples once during each subsequent compliance period. Triennial samples shall be collected every third year.

(ii) A water system using surface water (or a combination of surface and groundwater) shall collect samples once during each year, the first annual monitoring period to begin during the year in which the applicable Division determination is made under paragraph (9)(d)1. of this rule.

2. A system is not required to conduct source water sampling for lead and/or copper if the system meets the action level for the specific contaminant in tap water samples during the entire source water sampling period applicable to the system under paragraphs (9)(d)1.(i) or (ii).

(e) Reduced monitoring frequency.

1. A water system using only ground water may reduce the monitoring frequency for lead and copper in source water to once during each nine-year compliance cycle, as is defined in 40 CFR § 141.2, provided the samples are collected no later than every ninth calendar year and if the system meets one of the following:

(i) The system demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead and copper concentrations specified by the Division under Rule 391-3-5-.25(1)(c) during at least three consecutive compliance periods under paragraph (9)(d)1.; or

(ii) The Division has determined that source water treatment is not needed and the system demonstrates that, at least three consecutive compliance periods in which sampling was conducted under paragraph (9)(d)1., the concentration of lead in source water was less than or equal to 0.005 mg/L and the concentration of copper in source water was less than or equal to 0.65 mg/L.

2. A water system using surface water or a combination of surface and groundwater may reduce the monitoring frequency in paragraph (9)(d)1. to once during each nine-year compliance cycle, as is defined in 40 CFR § 141.2, provided the samples are collected no later than every ninth calendar year and if the system meets one of the following:

(i) The system demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead and copper concentrations specified by the Division under paragraph (1)(c) during at least three consecutive years; or

(ii) The Division has determined that source water treatment is not needed and the system demonstrates that, for at least three consecutive years, the concentration of lead in source water was less than or equal to 0.005 mg/L and the concentration of copper in source water was less than or equal to 0.65 mg/L.

3. A water system that uses a new source of water is not eligible for reduced monitoring for lead and/or copper until concentrations in samples collected from the new source during three consecutive monitoring periods are below the maximum permissible lead and copper concentrations specified in paragraph (4)(a) 5.

(10) **Analytical Methods**. Analyses for lead, copper, pH, conductivity, calcium, alkalinity, orthophosphate, silica, and temperature shall be conducted in accordance with 40 CFR § 141.89.

(11) **Reporting Requirements**. All water systems shall report all information to the Division in accordance with 40 CFR § 141.90.

(12) **Record Keeping Requirements**. All systems subject to the requirements of this rule shall retain on its premises original records of all sampling data and analyses, reports, surveys, letters, evaluations, schedules, Division determinations, and any other information required in accordance with 40 CFR § 141.91.

(13) **Treatment Techniques**.

(a) These regulations establish treatment techniques in lieu of maximum contaminant levels for acrylamide and epichlorohydrin.

(b) Each public water system must certify annually in writing to the Division (using third party or manufacturer's certification) that when acrylamide and epichlorohydrin are used in drinking water systems, the combination (or product) of dose and monomer level does not exceed the levels specified as follows:

1. Acrylamide = 0.05% dosed at 1 ppm (or equivalent);

2. Epichlorohydrin = 0.01% dosed at 20 ppm (or equivalent); certifications can rely on manufacturers or third parties, as approved by the Division.

(14) **Service Line Inventory.** All water systems must develop an initial lead service line inventory by October 16, 2024, in accordance with 40 CFR § 141.84(a), and submit it to the Division in accordance with 40 CFR § 141.90(e) in an electronic format prescribed by the Director.

Cite as Ga. Comp. R. & Regs. R. 391-3-5-.25

AUTHORITY: O.C.G.A. § 12-5-170 ***et seq*.**

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Amended: F. July 15, 1983; eff. August 4, 1983.

Repealed: New Rule entitled "Volatile Synthetic Organic Chemical Sampling and Analytical Requirements" adopted. F. May 12, 1989; eff. June 1, 1989.

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

Repealed: New Rule, entitled "Treatment Techniques, Lead and Copper Requirements" adopted. F. June 25, 1992; eff. July 15, 1992.

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Amended: F. June 8, 2001; eff. June 28, 2001.

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Amended: F. Apr. 22, 2021; eff. May 12, 2021.

Amended: F. Sept. 14, 2023; eff. Oct. 4, 2023.

Department 478. RULES OF THE STATE PERSONNEL BOARD

Chapter 478-1. RULES OF THE STATE PERSONNEL BOARD

478-1-.16 Absence from Work

(1) **Introduction**:

The State recognizes value in providing a reasonable amount of time off to assist employees with balancing work and personal needs. To be a responsible steward of public funds, however, the State must account for any pay provided to employees for time not worked. Paid time off must be charged to appropriate paid leave, accumulated compensatory time, paid holiday time, or suspension with pay.

This Rule defines the available types of paid and unpaid leave and the eligibility for each. It further provides a framework for leave, compensatory time, and holiday administration. Information about paid suspension is available in Rule 478-1-.15, Changes to Employment Status, and more detailed information about compensatory time can be found in statewide policy #7 - Rules, Regulations, and Procedures Governing Working Hours, the Payment of Overtime, and the Granting of Compensatory Time, jointly issued by the Governor's Office of Planning and Budget and the Department of Administrative Services.

(2) **Applicability**:

(a) The policies and procedures described in this Rule apply to all agencies of the Executive branch, excluding the Board of Regents of the University System of Georgia.

(b) In accordance with State law (O.C.G.A. § 45-20-32), Section (18) of this Rule, Education Support Leave, is applicable to all branches and entities of State government.

(3) **Definitions**:

For the purposes of this Rule, the following terms and definitions apply in addition to those in Rule 478-1-.02, Terms and Definitions:

(a) "Administrative Leave" means paid time off for specified reasons defined in State law. This paid time off is not charged to accrued leave, and the duration is defined in applicable statute.

(b) "Immediate family" means the employee's spouse, child, parent, grandparent, grandchild, brother, and sister, including active step and in-law relationships. Immediate family also includes any other person who resides in the employee's household and is recognized by law as a dependent of the employee.

(c) "Seasonal activity" means work during periods of significantly increased demand, which are of a regular and recurring nature.

(d) "Workday" means a day an employee is regularly scheduled to work.

(4) **General Leave Administration Provisions**:

(a) Each agency should establish procedures for employees to request and receive approval for absence from work.

(b) Employees are expected to properly request and receive approval for absence from work. Failure to follow the employer's procedures may result in denial of the request and/or other employment action deemed appropriate by the agency, up to and including termination of employment.

(c) If a request for absence is denied, the employee is expected to work, as scheduled. Failure to do so might result in leave without pay and/or other employment action deemed appropriate by the agency, up to and including termination of employment.

(d) The agency may require an employee on leave with an uncertain end date to provide periodic reports during the leave regarding the employee's status and intent to return to work.

(e) An employee absent on official agency business is not considered to be on leave.

(f) An employee is expected to return to work as scheduled at the expiration of approved absence. If an extension is desired, the employee must request it in writing from her/his supervisor prior to the leave expiration or adhere to other agency procedures for timely requesting an extension.

(g) Failure to obtain approval for additional time off beyond the expiration of an approved absence may result in separation from employment or other employment action deemed appropriate by the agency.

(h) Each agency may, as a condition of return, require an employee who is absent from work because of illness or injury to supply an appropriate medical release or certification that the employee is able to return to work. The release or certification must explain the extent to which the employee is able to perform the essential functions of her/his position, with or without reasonable accommodation.

1. Each agency must comply with the requirements of the Americans with Disabilities Act, as amended, including providing reasonable accommodation to its qualified employees with disabilities.

2. A limitation exists for employees returning to work from using intermittent or reduced schedule Family and Medical Leave. An agency may require fitness-for-duty certification only if the agency reasonably believes the return could pose significant risk of harm to the employee or others. Such certification may be required no more often than every 30 calendar days.

3. If the medical certification does not release the employee to perform essential functions, and there is no available reasonable accommodation, as defined in the Americans with Disabilities Act, as amended, or if the employee fails to provide the required release, the agency may take the employment action it deems appropriate, up to and including termination of employment.

(i) Prior to engaging in other employment, including self-employment, while on leave employees must comply with the notice and other requirements set forth in Rule 478-1-.07, Outside Employment.

(j) Misrepresenting reasons for requesting or continuing an absence may result in disciplinary action, up to and including termination of employment.

(k) Exceptions to this Rule will occur if necessary to comply with applicable laws.

(5) **Types of Paid Leave**:

(a) The State's paid leave program offers a combination of accrued, personal, and administrative leave for eligible employees.

(b) The following employees are not eligible for any paid leave benefits:

1. All temporary employees except for those eligible to receive Paid Parental Leave under Section (26) of this Rule,

2. All hourly employees except for those eligible to receive Paid Parental Leave under Section (26) of this Rule, and

3. Active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia (ERS) while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

Eligibility for other employees is defined in the applicable leave section within this Rule.

(c) Accrued Leave:

1. Accrued leave includes annual leave and sick leave. Both annual and sick leave are earned based on time in pay status and automatically accrue to eligible employees. (See Section (6) Annual Leave and Section (7) Sick Leave of this Rule).

2. Each agency, by written policy, may set a minimum period of annual and/or sick leave to be charged for any use which is only a fraction of that period. The minimum leave period cannot be greater than 15 minutes.

3. Dual Eligibility Relating to Leave Accrual:

(i) An employee who is simultaneously employed in two different agencies and is entitled to earn leave under each position s/he holds will independently accrue leave in accordance with each agency's policies.

(ii) If employment is terminated with one agency but not the other, all leave accruals will be combined and available in the remaining position, provided both agencies use the same leave accrual program. An exception applies when one of the agencies is a Community Service Board, County Board of Health, or Board of Health Community Operated Program. Leave accrued in these organizations cannot be transferred to an Executive Branch agency.

(iii) If the leave programs differ or if leave cannot otherwise transfer, the terminating agency will payout/divest the employee's leave as provided in the Annual, Sick, and Personal Leave sections of this Rule.

(d) Administrative Leave:

State law provides paid administrative leave to eligible employees for certain activities. Such leave is in addition to, and not charged against, an employee's accrued leave. Administrative leave is available for/during the following:

1. Absence Due to Emergency Office Closures (See Section (12) of this Rule.),

2. Blood Donation Leave (See Section (13) of this Rule.),

3. Bone Marrow Donation Leave (See Section (14) of this Rule.),

4. Organ Donation Leave (See Section (15) of this Rule.),

5. Court Leave (See Section (16) of this Rule.),

6. Employee Voting Leave (See Section (17) of this Rule.),

7. Education Support Leave (See Section (18) of this Rule.),

8. Disaster Volunteer Leave (See Section (19) of this Rule.),

9. Line-of-Duty Injury Leave, also known as Special Injury Leave (See Section (20) of this Rule.),

10. Leave for Contracting TB or infectious Hepatitis on the job (See Section (21) of this Rule.),

11. Military Leave (See Rule 478-1-.19, Military Leave.), and

12. Paid Parental Leave (See Section (26) of this Rule).

(e) Limitation on Concurrent Use of Paid Leave and Wage Substitutes:

An employee is not allowed to use any type of paid leave, except in special situations discussed in Section (20) of this Rule, for any time that the employee receives any form of State of Georgia-funded wage substitute, including but not limited to Workers' Compensation.

(6) **Annual Leave**:

(a) Eligibility:

1. Each agency provides paid annual leave for non-temporary salaried employees who are regularly scheduled to work 20 or more hours a week.

2. The Georgia Industries for the Blind provides paid annual leave for non-temporary manufacturing employees who are regularly scheduled to work 20 hours or more a week.

3. The following employees are not eligible to accrue annual leave:

(i) All temporary employees,

(ii) All hourly employees, and

(iii) Active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

(b) Accrual:

1. The accrual process begins on the first date of employment. Annual leave is credited to eligible employees at the end of each pay period.

2. Annual leave accrues on a graduated scale based on an employee's length of continuous, unbroken State service in a position entitled to accrue leave under this Rule.

3. Full-time employees scheduled for at least 40 hours per workweek accrue annual leave at the following rates:

Complete Months of Continuous Service	Paid Semi-Monthly	Paid Monthly
0 through 60	5 hours per pay period	10 hours per pay period
60+ through 120	6 hours per pay period	12 hours per pay period
120+	7 hours per pay period	14 hours per pay period

(i) Employees paid semi-monthly must be in pay status for at least 40 hours during the pay period to accrue annual leave at the end of that pay period.

(ii) Employees paid on a monthly basis must be in pay status for at least 80 hours during the pay period to accrue annual leave at the end of that pay period. An agency that compensates employees on a monthly basis may choose to administer annual leave as if those employees were compensated on a semi-monthly basis.

4. Part-time employees scheduled to work at least 20 (but fewer than 40) hours per workweek accrue annual leave as outlined for full-time employees, but at a prorated rate.

(i) The prorated rate is determined by dividing the employee's standard weekly work hours by 40. For example, a part-time employee scheduled for 20 hours per workweek would accrue annual leave at 50% of the rate a full-time employee accrues annual leave (20 hours ÷ 40 = .5 or 50%). A new 20-hour employee would earn 2.5 hours of annual leave semi-monthly or 5 hours monthly.

(ii) The minimum periods of time in pay status required for annual leave accrual noted in Section (6)(b)3(i)-(ii), above, are similarly prorated for part-time employees. A 20-hour employee would need to be in pay status at least 20 hours during a semi-monthly pay period, or 40 hours during a monthly pay period, in order to accrue leave at the end of that pay period.

(c) Use and Limitations of Annual Leave:

1. Annual leave may be used for vacation or other personal reasons.

2. Employees may not take annual leave before it is actually earned.

3. An agency may by written policy require its employees to use compensatory time and/or deferred holiday time before using annual leave.

4. An agency may by written policy require its employees to use available sick leave before using annual leave when the absence involves medical reasons that would qualify for sick leave.

5. In scheduling annual leave, agencies should try to accommodate employee preferences. However, employees who request annual leave during busy periods or at times when coworkers have already requested leave might need to make alternate plans. Supervisors must weigh the agency's business needs and the timeliness of the requests in approving annual leave.

(d) Carryover and Forfeiture of Annual Leave:

1. An employee may accrue up to 360 hours of annual leave. Any leave balance in excess of 360 is forfeited at the end of each month.

2. Annual leave that is forfeited may be restored as sick leave by the agency if an employee exhausts all paid leave and compensatory time and must be absent because of a personal or immediate family medical condition. The restoration of leave is limited to:

(i) The amount required by the circumstances of the medical condition; and

(ii) The leave forfeited during the current period of employment. Forfeited leave accrued prior to a break in service cannot be restored except as outlined in Section (7)(h) of this Rule.

(e) Annual Leave Payout:

1. Annual leave payout can occur in four circumstances:

(i) Payout Upon Separation. Employees are paid for their accrued and unused annual leave, which has not been forfeited, upon separation from State employment for at least one full workday for any reason.

A. Annual leave payout is limited to a maximum of 360 hours.

B. Annual leave is not paid out when an employee transfers between State agencies with no break in service or when annual leave will otherwise transfer to the new employer. (See Section (10) of this Rule.)

C. Once a separation date has been determined, the pay status of an employee cannot be extended for the purpose of granting a holiday or unanticipated non-workday occurring after the last day in pay status. Once an employee notifies the agency of the intent to terminate employment, the employee cannot be continued on the payroll on leave with pay status for the purpose of increasing the current salary, the rate of leave accrual, or the rate at which accrued leave would be paid.

(ii) Extended Leave of Absence Payout: An employee who is taking an approved leave of absence without pay of 30 calendar days or more may request and receive an annual leave payout for all accrued annual leave excluding

forfeited leave, up to a maximum of 360 hours. The lump sum payment will be calculated as outlined in (6)(e)2, below.

(iii) Payout Upon Transfer to Position Ineligible to Earn Leave: Upon transfer into a position that is not entitled to earn annual leave (i.e., temporary position, hourly position for which the employee is paid only for the time worked, or part-time position scheduled for fewer than 20 hours per week) an employee will be paid for accrued and unused annual leave, up to a maximum of 360 hours.

(iv) Annual Leave Conversion Payout: Employees may convert annual leave into a cash payout once per fiscal year upon notice of the availability of this payout option.

A. The availability of the annual leave conversion program shall be determined on an annual basis by the Governor's Office of Planning and Budget. The Governor's Office of Planning and Budget shall determine both the availability of funding and timing of the annual leave conversion payout.

B. Agencies shall annually certify to the Governor's Office of Planning and Budget the intention to participate in the program and the availability of sufficient funding within individual agency budgets to do so.

C. Upon notice of the availability of the annual leave conversion payout, an employee may elect to irrevocably convert an increment of 40 hours of annual leave to a cash payout if the employee has an accrued annual leave balance of at least 160 hours and a sick leave balance of 80 hours at the time of request.

D. Agencies should ensure that employees who are absent in a protected leave status (e.g., FMLA, military leave) during the election period are advised of any eligibility to convert annual leave to a cash payout and provided reasonable opportunity to make the conversion.

E. Each agency is required to track employee transfers between state agencies to ensure that the payout limitation of 40 hours per fiscal year per employee is not exceeded.

2. To calculate annual leave payout for a full-time employee, the annual base pay last received by the employee is divided by 2,080 hours to determine the value of each hour of leave. (Annual base pay for a part-time employee must first be converted to the equivalent full-time salary for purposes of this calculation.) The hourly rate is then multiplied by the number of hours to be paid. Decimal fractions of an hour will be rounded to the next highest hundredth of an hour.

3. Each agency has discretion to determine whether it will pay out accrued annual leave for its active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia when they become ineligible for paid leave benefits upon reinstatement of retirement annuity payments at the beginning of each calendar year. If any agency chooses not to pay out the accrued annual leave, the leave balance will remain credited to the rehired retiree who can then use the leave upon regaining eligibility for paid leave benefits.

(7) **Sick Leave**:

(a) Eligibility:

1. Each agency provides paid sick leave for non-temporary salaried employees who are regularly scheduled to work 20 or more hours a week.

2. The Georgia Industries for the Blind provides paid sick leave for non-temporary manufacturing employees who are regularly scheduled to work 20 or more hours a week.

3. The following employees are not eligible to accrue sick leave:

(i) All temporary employees,

(ii) All hourly employees, and

(iii) Active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

(b) Accrual:

1. The accrual process begins on the first date of employment. Sick leave is credited to eligible employees at the end of each pay period.

2. Full-time employees paid on a semi-monthly basis will accrue five (5) hours of sick leave at the end of each pay period, provided the employee is in pay status for at least 40 hours during the pay period.

3. Full-time employees paid on a monthly basis will accrue 10 hours of sick leave at the end of each pay period, provided the employee is in pay status for at least 80 hours during the pay period. An agency that compensates employees on a monthly basis may choose to administer sick leave as if those employees were compensated on a semi-monthly basis.

4. Part-time employees scheduled to work at least 20 (but fewer than 40) hours per workweek accrue sick leave as outlined for full-time employees, but at a prorated rate.

(i) The prorated rate is determined by dividing the employee's standard weekly work hours by 40. For example, a part-time employee scheduled for 20 hours per workweek would accrue sick leave at 50% of the rate a full-time employee accrues sick leave (20 hours ÷ 40 = .5 or 50%). A 20-hour employee would earn 2.5 hours of sick leave semi-monthly or five (5) hours monthly.

(ii) The minimum periods of time in pay status required for sick leave accrual noted in Section (7)(b)2-3, above, are similarly prorated for part-time employees. A 20-hour employee would need to be in pay status at least 20 hours during a semi-monthly pay period or 40 hours during a monthly pay period in order to accrue leave at the end of that pay period.

(c) Use and Limitations of Sick Leave:

1. Provided the employee adheres to the procedures for approval of leave, an employee may use accrued sick leave for any absence due to:

(i) Personal illness, injury, or disability;

(ii) Adoption of a child by the employee when the employee's presence is required for health-related reasons;

(iii) Dental or medical care;

(iv) Illness, injury, or disability in the employee's immediate family which requires the employee's presence; or,

(v) Death in the employee's immediate family which requires the employee's presence; however, sick leave used for this purpose shall be limited to five (5) workdays or the equivalent of a workweek.

2. Sick leave may also be used to allow an employee paid time off from work because s/he has been exposed to a contagious disease and may reasonably expose others and endanger their health by being present at work.

3. Employees may not use sick leave before it is actually earned.

4. An agency may by written policy require its employees to use compensatory time and/or deferred holiday time before using sick leave.

5. An employee may be required to furnish evidence to support the use of sick leave if the employee uses 17 or more hours of sick leave in a 30 calendar day period or has demonstrated excessive or abusive use of sick leave.

6. Employees using sick leave during a period of Family and Medical Leave (FMLA) are also subject to the medical certification provisions associated with FMLA. (See Rule 478-1-.23, Family and Medical Leave.)

(d) Excessive or Abusive Use of Sick Leave:

Excessive or abusive use of sick leave is defined as a pattern of intermittent, short-term usage that includes, but is not limited to, the following:

1. Frequent use of sick leave in conjunction with holidays, scheduled off days, weekends, or paydays;

2. Frequent use of sick leave when scheduled for undesirable temporary shifts or assignments, or during periods of peak workload;

3. A request for sick leave for an absence for which other paid leave has previously been denied;

4. Frequent occurrences of illness during the workday;

5. Peculiar and increasingly improbable excuses;

6. Repetitive use of fewer than 17 hours of sick leave in 30-day periods; or,

7. Prior written notification of failure to adhere to procedures for approval of leave, inappropriate attendance, or inappropriate use of leave (e.g., written warning, active attendance plan, etc.).

(e) Illness during Annual Leave:

If an employee is ill for three (3) workdays or more during a period of annual leave, the period of illness may be charged to sick leave if the employee provides satisfactory written evidence supporting the illness during annual leave. A request for substitution of sick leave for annual leave must be made to the agency within two (2) weeks after the employee has returned to duty. No substitution will be allowed for illness that does not last for three (3) or more workdays.

(f) Exhaustion of Sick Leave:

If an absence because of illness, injury, or disability extends beyond available sick leave, the absence may be charged to available annual leave, personal leave, compensatory time, or deferred holiday time, unless the employee applies for, and the agency approves, a leave of absence without pay. Leave donations may be available to an employee who must be absent for an extended period of time after exhausting all paid leave and compensatory time. (See Rule 478-1-.17, Leave Donation, for program details.)

(g) Carryover and Forfeiture of Sick Leave:

1. An employee may accrue up to 720 hours of sick leave. Any leave balance in excess of 720 is forfeited at the end of each month.

2. Sick leave that is forfeited may be restored by the agency if an employee exhausts all paid leave and compensatory time and must be absent because of a personal or immediate family medical condition. The restoration of leave is limited to:

(i) The amount required by the circumstances of the medical condition; and,

(ii) The leave forfeited during the current period of employment. Forfeited leave accrued prior to a break in service cannot be restored except as outlined in Section (7)(h) of this Rule.

(h) Divestment and Restoration of Sick Leave:

1. Upon a break in State service (i.e., separation from State employment for at least one full workday), an employee's accrued sick leave is divested and not paid out. (See Section (10)(e) of this Rule for an exception in such case as when a Community Service Board, County Board of Health, or Board of Health Community Operated Program agrees to accept an employee's leave upon transfer without a break in service.)

2. An employee's accrued sick leave is divested and not paid when an employee transfers into a position that is not entitled to earn sick leave (i.e., temporary position, hourly position for which the employee is paid only for the time worked, or part-time position scheduled for fewer than 20 hours per week).

3. Each agency has discretion to determine whether it will divest accrued sick leave for its active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia when they become ineligible for paid leave benefits upon reinstatement of retirement annuity payments at the beginning of each calendar year. If an agency chooses not to divest the accrued sick leave, the leave balance will remain credited to the rehired retiree who can then use the leave upon regaining eligibility for paid leave benefits.

4. Employees who return to State employment on or after July 1, 2003, and remain employed for a period of two (2) consecutive years in a position entitled to accrue leave in accordance with this Rule, are eligible to regain sick leave divested when their most recent previous period of State service ended.

5. Divested sick leave includes any sick leave that was available for use at the time of the employee's last separation from State service. It does not include any sick leave forfeited prior to the employee's last separation.

6. The maximum amount of divested sick leave the employee may regain is 720 hours. Divested leave will only be restored to the extent that the restored leave and current unused sick leave total 720 hours. Any remaining balance of divested sick leave will be credited to the employee's current forfeited leave balance.

7. If a Community Service Board, County Board of Health, or Board of Health Community Operated Program accepts leave upon transfer from the State, then sick leave is not considered divested at the time the employee leaves State service. Should the employee later return to State employment, sick leave divested at the time the employee returns to the Executive Branch would not be eligible for reinstatement.

8. To obtain restoration of divested sick leave, an employee must apply in writing to the employing agency and include supporting documentation. The agency will determine the appropriate amount of divested sick leave to be restored.

9. Employees returning to State employment within one year of being laid off by a State agency in accordance with a reduction-in-force plan will immediately receive restoration of the sick and forfeited leave that was lost at the time of layoff, provided they return to a position entitled to accrue leave in accordance with this Rule. (See Section (11) of this Rule.)

(8) **Personal Leave**:

Each year, an employee who has an accrued sick leave balance of more than 120 hours as of November 30 may convert up to 24 hours of the excess sick leave to personal leave.

(a) The employee must have a remaining sick leave balance of at least 120 hours after conversion.

(b) The employee must notify the agency of such a conversion no later than December 31 of that year. Agencies should ensure that employees who are absent in a protected leave status (e.g., FMLA, military leave) during the election period are advised of any eligibility to convert sick leave to personal leave and provided a reasonable opportunity to make the conversion.

(c) Sick leave that is converted during December becomes personal leave on January 1 and cannot be reversed after it is converted. Personal leave is available for use only during the calendar year following conversion.

(d) Each agency, by written policy, may set a minimum period of personal leave to be charged for any use which is only a fraction of that period. The minimum leave period cannot be greater than fifteen (15) minutes.

(e) Personal leave may be used for any reason, upon receiving supervisory approval, with the following exceptions:

1. Employees cannot use personal leave while they are receiving Georgia State-funded wage substitutes, such as Workers' Compensation wage loss benefits.

2. An agency may by written policy require its employees to use available sick leave before using personal leave when the absence involves medical reasons that would qualify for sick leave.

(f) Agencies should make every reasonable effort to accommodate requests to utilize personal leave. An employee is, however, expected to give as much advance notice as possible to minimize disruptions.

(g) Personal leave not used by December 31 of the year the leave was available will be divested and cannot be restored.

(h) Any unused personal leave at the time of an employee's break in State service of at least one full workday is divested and not paid to the employee.

(i) When an employee transfers into a position that is not entitled to earn leave (i.e., temporary position, hourly position for which the employee is paid only for the time worked, or part-time position scheduled for fewer than 20 hours per week) any unused personal leave is divested and not paid.

(j) Personal leave carries no cash value if unused. There will be no payout for unused personal leave upon termination.

(9) **Election to Use Accrued Leave or Personal Leave for Workers' Compensation Absence**:

(a) An employee may not use annual, sick, or personal leave for an accidental injury or occupational disease which is compensable under the Georgia Workers' Compensation Act, unless the employee elects in writing to use paid leave in lieu of receiving Workers' Compensation wage loss benefits.

(b) The leave granted for such purpose will be credited on a day-for-day basis as compensation against any indemnity award by the State Board of Workers' Compensation.

(c) An employee may prospectively submit to the agency a written election to use annual, sick, and/or personal leave in lieu of receiving Workers' Compensation wage loss benefits.

(10) **Transfer of Accrued Leave and Personal Leave**:

The following provisions define the transfer of accrued leave and personal leave when employees transfer to a different State government agency or entity without a break in service from a position entitled to accrue leave into another position entitled to accrue leave. Note that accumulated compensatory time does not transfer between State entities. Upon transfer, the losing organization must payout unused FLSA compensatory time, and unused State compensatory time balances are divested and not paid. (See Sections (23) FLSA Compensatory Time and (24) State Compensatory Time of this Rule.)

(a) Transfer between Executive Branch Agencies:

Unused sick, annual, and personal leave and the record of forfeited leave will transfer between Executive branch agencies.

(b) Transfer between Branches of State Government:

1. Unused sick, annual, and personal leave and the record of forfeited leave will transfer from an Executive branch agency into the Legislative or Judicial branch to the extent the receiving organization agrees to accept the transfer. The employee will be paid for unused annual leave that cannot be transferred, up to a maximum of 360 hours, once the agency has received confirmation that the employee cannot receive credit. Accrued personal leave and sick leave balances that cannot be transferred are not paid and are divested.

2. The unused leave and record of forfeited leave will transfer into an Executive branch agency from the Legislative or Judicial branch only when the losing and receiving organizations have the same leave accrual program. If the Legislative or Judicial branch entity's leave program deviates from this Rule, leave balances and the record of forfeited leave will not transfer into the Executive branch agency, and the employee will be considered a new hire for purposes of graduated annual leave accrual.

(c) Transfer between Board of Regents and Executive Branch:

1. Unused sick, annual, and personal leave and the record of forfeited leave will transfer from an Executive branch agency into a unit of the Board of Regents/University System of Georgia to the extent the receiving organization agrees to accept the transfer. The employee will be paid for unused annual leave that cannot be transferred, up to a maximum of 360 hours, once the agency has received confirmation that the employee cannot receive credit. Accrued personal leave and sick leave balances that cannot be transferred are not paid and are divested.

2. Unused leave and the record of forfeited leave will not transfer into an Executive branch agency from the Board of Regents/University System of Georgia. Transferring employees are considered new hires for purposes of graduated annual leave accrual.

(d) Transfer between Authorities and Executive Branch:

1. Unused sick, annual, and personal leave and the record of forfeited leave will transfer from an Executive branch agency into an authority to the extent the receiving organization agrees to accept the transfer. The employee will be paid for unused annual leave that cannot be transferred, up to a maximum of 360 hours, once the agency has received confirmation that the employee cannot receive credit. Accrued personal leave and sick leave balances that cannot be transferred are not paid and are divested.

2. The unused leave and record of forfeited leave will transfer into an Executive branch agency from an authority only when the losing and receiving organizations have the same leave accrual program. If the authority's leave program deviates from this Rule, leave balances and the record of forfeited leave will not transfer into the Executive branch agency, and the employee will be considered a new hire for purposes of graduated annual leave accrual.

(e) Transfers between Community Service Boards (CSB), County Boards of Health, and Board of Health Community Operated Programs (BOHCOP) and Executive Branch:

1. Unused sick, annual, and personal leave and the record of forfeited leave will transfer from an Executive branch agency into a unit of a CSB, County Board of Health, and BOHCOP to the extent the receiving organization agrees to accept the transfer. The employee will be paid for unused annual leave that cannot be transferred, up to a maximum of 360 hours, once the agency has received confirmation that the employee cannot receive credit. Accrued personal leave and sick leave balances that cannot be transferred are not paid and are divested.

2. Unused leave and the record of forfeited leave will not transfer into an Executive branch agency from any CSB, County Board of Health, or BOHCOP. Transferring employees are considered new hires for purposes of graduated annual leave accrual. An exception applies to classified employees whose unused sick, annual, and personal leave and record of forfeited leave will transfer into the Executive branch.

(11) **Credit for Leave on Return from Layoff**:

The provisions in this section apply to employees rehired into State service in a position entitled to accrue leave in accordance with this Rule within one (1) year of being laid off as a result of agency downsizing or reorganization.

(a) Upon rehire, the employee's sick leave balance existing at the time of layoff will be reinstated.

(b) Any record of forfeited leave existing at the time of layoff will be reinstated, but the leave will not be available for the employee's use, except as provided for in Section (7), Sick Leave, of this Rule.

(c) The period of absence for the layoff will not constitute a break in service for purposes of graduated annual leave accrual.

(d) Upon rehire, the employee's personal leave balance will be reinstated, unless the employee returns in the calendar year after the personal leave would have expired.

(12) **Absence Due to Emergency Office Closures**:

When the Governor, or an agency upon delegated authority by the Governor, closes an office or facility because of weather conditions or other emergency circumstances, affected employees are excused from duty without loss of pay as provided in this Rule section. Employees who are not directly affected by an emergency office closure will not be excused from work.

(a) Employees considered directly affected by a closure:

1. Employees who were scheduled to work in an affected area during an emergency office closure are considered affected by the closure.

2. Non-temporary salaried employees affected by the closure are paid for the scheduled work time they do not work because of the closure. This paid time off is not charged against their accrued leave.

3. The following employees are not eligible for compensation for absences due to emergency closure:

(i) Unaffected employees,

(ii) All temporary employees,

(iii) All hourly employees, and

(iv) Active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

(b) Employees considered unaffected by the closure:

Employees who were not scheduled to work in an affected area during an emergency office closure are considered unaffected by the closure. Employees scheduled to use leave or compensatory time during an emergency office closure will be charged for that pre-approved leave or compensatory time because they are considered unaffected by the closure.

(c) Essential Staff:

An agency may determine that it is essential to continue certain functions during an emergency office closure. Employees whose functions are deemed essential may be required to work, rather than excused from duty.

1. Such employees will be compensated as usual for the time worked during their normal work schedule and do not have any right to additional absence or compensation for this time as a result of paid absence authorized for non-essential staff.

2. Essential employees who are required to work additional time because of an office or facility closing will be compensated in accordance with the provisions of statewide policy #7 - Rules, Regulations and Procedures Governing Working Hours, the Payment of Overtime and the Granting of Compensatory Time.

(d) If an employee is absent from duty because of severe weather conditions or other emergencies that do not cause her/his office or facility to close, the agency may permit the employee to:

1. Make up time lost from work. In order to comply with the Fair Labor Standards Act, a non-exempt employee must make up time during the same workweek as the time lost;

2. Charge the period of absence to accrued compensatory time;

3. Charge the period of absence to accrued annual leave;

4. Charge the period of absence to personal leave;

5. Charge the period of absence to deferred holiday time;

6. Telework (if determined appropriate by the agency); or,

If none of the above options are available, place the employee on leave without pay for the period of absence.

(13) **Blood Donation Leave**:

(a) Non-temporary salaried employees are permitted to take up to two (2) hours of paid time off to donate blood, up to four (4) times each calendar year. Employees who donate blood platelets or granulocytes through the plasmapheresis process may take up to four (4) hours of paid time off, up to four (4) times a calendar year.

(b) An eligibility exception applies to active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia. Such employees are not eligible for blood donation leave while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

(c) The agency may specify the hours during which an employee may be absent in order to donate blood. An employee who does not use the entire time allowed at the time of each donation does not accrue any right to any subsequent paid or unpaid leave.

(14) **Bone Marrow Donation Leave**:

(a) Non-temporary salaried employees are granted seven (7) workdays of paid leave to donate bone marrow for transplantation. The amount of leave will not be deducted from any accrued leave balance and will be included as service time for purposes of computing any retirement or pension benefits.

(b) An eligibility exception applies to active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia. Such employees are not eligible for bone marrow donation leave while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

(c) To receive paid bone marrow donation leave, the employee must have approval from the agency for absence and provide the agency with a written statement from a medical practitioner performing the procedure. If the donation does not occur, bone marrow donation leave is not applicable.

(15) **Organ Donation Leave**:

(a) Non-temporary salaried employees are granted 30 workdays of paid leave to donate an organ for transplantation. The term "organ" means any human organ, including an eye, which is capable of being transferred from the body of

one person to another. The amount of leave will not be deducted from any accrued leave balance and must be included as service time for purposes of computing any retirement or pension benefits.

(b) An eligibility exception applies to active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia. Such employees are not eligible for organ donation leave while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

(c) To receive paid organ donation leave, the employee must have approval from the agency for absence and provide the agency with a written statement from a medical practitioner performing the transplant procedure or a hospital administrator indicating that the employee is making an organ donation. If the donation does not occur, organ donation leave is not applicable.

(16) **Court Leave**:

(a) The State recognizes employees' obligation to perform civic duties when summoned as a potential juror or witness and grants time off to employees for such purposes. An employee may not be discharged, disciplined, or otherwise penalized because the employee is absent from employment for the purpose of attending a judicial proceeding in response to a subpoena, summons for jury duty, or other court order or process which requires the attendance of the employee.

(b) Leave Request and Supporting Documentation:

1. An employee who is summoned to perform jury duty or to serve as a witness during scheduled work time and needs to be absent from work is expected to provide a copy of the summons, subpoena, or other court order when requesting leave.

2. Because employees will typically not know in advance how much time will be required to fulfill their court obligation, employees may be required to update the agency at reasonable intervals concerning the time needed for absence from duty.

(c) Paid Court Leave:

1. Paid court leave is granted to non-temporary salaried employees, as outlined in this Rule Section, for the purpose of attending a judicial proceeding in response to a subpoena, summons for jury duty, or other court order or process which requires the attendance of the employee during scheduled work hours. Such paid time off is not charged to an employee's accrued leave.

2. The following employees are not eligible for paid court leave:

(i) All temporary employees,

(ii) All hourly employees, and

(iii) Active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

(d) Jury Duty:

1. Eligible employees will receive paid court leave while on jury duty for the time they are otherwise scheduled to work. Employees will be paid only for the time they are required to appear by the court, plus any additional time that is reasonably necessary, in the opinion of the agency, for the employee to prepare for or return from jury duty.

2. Employees will not receive any compensation for time spent serving as a juror that exceeds the employee's regular work schedule.

3. Employees may keep any juror fees and travel allowances they receive from the court.

(e) Court Attendance and Witness Duty Leave:

1. An employee summoned to appear as a witness or required by a court to attend a proceeding will typically be paid in the same manner as an employee serving on a jury. However, an employee will not receive paid court leave to attend a trial, arbitration hearing, or other judicial proceeding in which s/he:

(i) Is charged with a crime;

(ii) Is a plaintiff or defendant;

(iii) Voluntarily appears as a witness;

(iv) Is a witness in a case arising from or related to her/his outside employment or outside business activity;

(v) Is testifying for a fee as an expert witness; or,

(vi) Has any other personal or familial interest in the proceeding.

2. When paid court leave is not applicable, the employee must use annual leave, personal leave, compensatory time, deferred holiday time, or take leave without pay.

(f) Return from Court Leave:

Employees are required to report back to work as soon as they are released from jury duty or other court ordered appearance if the release occurs before the end of the scheduled workday. Management may require verification from the court showing the time served. Failure to return timely from court leave is treated as an unexcused absence.

(17) **Voting Leave**:

The State encourages employees to exercise their right to vote in all federal, state, and local elections. Paid voting leave is not charged to an employee's accrued leave.

(a) Eligibility for Voting Leave:

1. Paid voting leave is available to non-temporary salaried employees and may be taken on Election Day or on a day designated for advance in-person voting.

2. Active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia are not eligible for voting leave while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

(b) Voting leave is limited to two (2) hours per election.

(c) For those employees not eligible for voting leave, agencies have the discretion to arrange flexible work schedules for voting purposes. Agencies may also allow employees to use other available paid leave, other than sick leave, if they are not eligible for voting leave or need more than two (2) hours to vote.

(d) Notification Requirement:

Employees are responsible for requesting and obtaining approval from their supervisor in advance of taking time off to vote. The agency may specify the hours during which an employee uses voting leave to ensure minimal disruption of normal agency operations.

(18) **Education Support Leave**:

To supplement work-life balance options for State employees, the State provides up to eight (8) paid hours of leave per calendar year to eligible employees for the purpose of promoting education in Georgia. Such leave is in addition to, and not charged against, an employee's accrued leave.

(a) Education support leave may be taken in increments of fewer than eight (8) hours utilizing the same minimum period an agency has established for other forms of paid leave.

(b) Eligibility:

All eligibility criteria defined below must be met before an employee can use education support leave.

1. Any non-temporary, full-time employee of the State of Georgia, or of any branch, department, board, bureau, or commission thereof, may request to use and be considered for education support leave. An exception applies to active, salaried, non-temporary employees in the Executive branch who are rehired retirees of the Employees' Retirement System. Such employees are not eligible for education support leave while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

2. Only activities directly related to student achievement and academic support will qualify for education support leave. Such activities may range from early care and learning through higher education. Each State employer maintains the authority to determine, in accordance with the provisions outlined in this Rule, whether an activity would qualify for education support leave.

3. To use education support leave, an employee may be, but is not required to be, the parent of a student.

4. Employees must not receive pay for services they perform while using education support leave.

5. Employees must receive prior approval from their supervisor before providing the services for which they are requesting education support leave. The State employer has discretion to require written verification from a school administrator, teacher, or other official prior to approval.

6. The State employer maintains discretion to approve or deny requests for education support leave based on operational needs or other reasons, such as conduct, attendance, or unsatisfactory work performance. The State employer should ensure that denials are applied consistently for all similarly situated employees.

7. Use of education support leave for any political purpose or agenda is prohibited.

(c) Education support leave does not accumulate, and unused leave does not roll over into subsequent calendar years. Rather, eligible employees may use education support leave for qualifying absences that occur during their regular scheduled work hours, up to a total of eight (8) hours in any calendar year.

(d) Employees can use no more than eight (8) paid hours of education support leave in a calendar year regardless of transfer from one State employer to another. Each State employer is responsible for conducting due diligence to ensure an employee has not exhausted education support leave prior to approving the paid leave.

(e) Education support leave carries no cash value if unused. There will be no payout for unused education support leave upon termination.

(f) Education support leave is not available to support education outside of the State of Georgia.

(19) **Disaster Volunteer Leave**:

The State recognizes that cooperation among government agencies and volunteer service agencies is vital in coping with natural disasters and other emergencies. To help prevent the loss and destruction of life and property, the State believes that employees who are trained and experienced in disaster relief should be able to provide assistance for brief periods without loss of pay and benefits.

(a) Eligibility:

1. To be eligible for paid disaster volunteer leave, an employee must be a certified disaster service volunteer of the American Red Cross whose services have been requested by the American Red Cross or by the Civil Air Patrol Auxiliary of the United States Air Force. The request for leave is subject to approval by the employee's agency and must be coordinated through the Director of Emergency Management.

2. The following employees are not eligible for disaster volunteer leave:

(i) All temporary employees,

(ii) All hourly employees, and

(iii) Active, salaried, non-temporary employees who are rehired retirees of the Employee's Retirement System of Georgia while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

(b) Paid Disaster Volunteer Leave:

An eligible employee may be granted leave with pay to participate in specialized disaster relief services for the American Red Cross or for the Civil Air Patrol Auxiliary of the United States Air Force. Paid leave to participate in specialized disaster relief services for the Civil Air Patrol Auxiliary of the United States Air Force is available only for service on a numbered mission in support of a county emergency management agency, the Georgia Emergency Management and Homeland Security Agency, or a comparable federal agency.

1. Paid leave under this section cannot exceed 15 workdays in any 12-month period and can be granted only for services related to a disaster occurring within the State of Georgia or in a bordering state which has a reciprocal statutory provision.

2. Paid disaster volunteer leave is not charged against an employee's accrued leave.

3. The employee will be compensated at the rate of pay for the regularly scheduled hours during which the employee is absent from work as a result of disaster volunteer leave.

(20) **Line-of-Duty Injury Leave (Special Injury Leave)**:

A non-temporary salaried employee scheduled to work 30 or more hours per week who becomes physically disabled as a result of an injury incurred in the line-of-duty and caused by a willful act of violence committed by a non-agency employee is entitled to a leave of absence for the period the employee is physically unable to perform her/his duties. Such a leave of absence will be provided in lieu of using accrued leave, and the employee will continue to receive regular compensation, subject to the limitations below.

(a) Leave granted under this provision cannot exceed 180 workdays for any single incident.

(b) An employee seeking leave under this section must submit documentation of disability to the agency.

(c) The following employees are not eligible for line-of-duty injury leave:

1. All temporary employees,

2. All hourly employees, and

3. Active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

(d) Benefits received under this provision of the Rule will be subordinate to any Workers' Compensation wage loss benefits that the employee is awarded and will be limited to the difference between the amount of Workers' Compensation benefits actually paid and the amount of the employee's regular compensation.

(e) Injury to Employees of the Department of Transportation:

When an employee of the Department of Transportation is disabled while working in the proximity of traffic movements or equipment movements doing maintenance, construction, or other activities which may be construed as hazardous, the reasons that qualify for line-of-duty injury leave are expanded. Qualifying reasons include: an act of violence, accident, or injury that is caused by a person other than an employee of the agency or an employee of a contractor or subcontractor performing duties under a contract with the agency.

(f) Permanent Disability to Law Enforcement Personnel:

Law enforcement personnel who are permanently disabled by an act of external violence or injury on the job and who qualify for a disability retirement benefit under O.C.G.A. § 47-2-221 are not eligible to receive line-of-duty injury leave under this provision.

(21) **Leave for Contracting TB or Hepatitis on the Job**:

(a) A non-temporary salaried employee who contracts tuberculosis or infectious hepatitis while charged with the care, treatment, or diagnosis of a person infected with tuberculosis or infectious hepatitis, and who has exhausted all available sick and annual leave will be granted a paid leave of absence of one-half her/his total compensation or $150 per month, whichever is less, for the duration of the disability due to the tuberculosis or infectious hepatitis, not to exceed 350 weeks.

(b) The following employees are not eligible for paid leave for contracting TB or hepatitis on the job:

1. All temporary employees,

2. All hourly employees, and

3. Active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

(c) An employee receiving leave under this special situation will be given credit for all salary adjustments and advancements, which would have been received had the employee remained in the same position with the same capacity and status held at the time the leave was granted.

(22) **Leave Without Pay**:

(a) Leave without pay may be used in the following situations:

1. When an employee is authorized for absence but does not have available paid leave to cover the absence;

2. When an employee is authorized for absence but foregoes the use of available paid leave for a Workers' Compensation-related absence or for other absence with the concurrence of the agency;

3. When an employee does not have approval for an absence (See Section (22)(g), below);

4. When there is insufficient funding for salaries (See Section (22)(h), below); and

5. When there is insufficient work available (See Section (22)(i), below).

(b) Leave without pay is not included as service time for purposes of computing retirement or pension benefits, unless otherwise specified.

(c) Short-Term Authorized Leave without Pay:

Agencies may grant an employee who is absent, but does not have accrued leave to cover the period of absence, leave without pay for a period of not more than 10 consecutive workdays in any one continuous absence. At the expiration of the approved leave, the employee shall be returned to the same position without any loss of rights provided the employee returns within the terms of the leave granted.

(d) Regular Leave of Absence without Pay:

1. A regular leave of absence without pay allows an employee to take unpaid time off for up to 12 continuous months and be granted return to work if the employee returns within the terms of the leave approval.

2. The employee must submit a written request to the agency. If approved, a written notice specifying the terms and conditions of the approval must be provided to the employee, including a statement indicating that the employee will be reinstated to the former position or to a position of equal grade and pay without loss of any rights provided the employee returns within the terms of the leave granted.

3. Although a regular leave of absence without pay does not constitute a break in service and does not result in divestment of leave, an employee who is taking an approved leave of absence without pay of 30 calendar days or more may request and receive an annual leave payout for all accrued annual leave excluding forfeited leave, up to a maximum of 360 hours. (See Section (6)(e) 4 of this Rule.)

(e) Contingent Leave of Absence without Pay:

1. A contingent leave of absence without pay is similar to a regular leave of absence, but does not guarantee a position will be available for the employee's return.

2. The employee may submit a written request to the agency to take a continuous leave without pay for a period not exceeding 12 months. The notice of approval must include the terms and conditions of the approval including a statement that the employee's right to return at the expiration of leave is not guaranteed and will be contingent upon a suitable vacancy being available.

3. Because a contingent leave of absence without pay does not guarantee an employee the right to return to work at the expiration, it may not be considered a reasonable accommodation under the Americans with Disabilities Act, as amended.

4. Although a contingent leave of absence without pay does not constitute a break in service and does not result in divestment of leave, an employee who is taking an approved leave of absence without pay of 30 calendar days or more may request and receive an annual leave payout for all accrued annual leave excluding forfeited leave, up to a maximum of 360 hours. (See Section (6)(e)4 of this Rule.)

(f) Extending a Leave of Absence without Pay:

1. The agency may extend an approved leave of absence without pay when such extension is properly requested. The employee must submit a written request for extension before the expiration of approved leave or follow other agency procedures. If approved, a written notice specifying the terms and conditions of the extension, including any rights to reinstatement, must be provided.

2. A continuous unpaid leave of absence may not exceed 24 months, unless otherwise required as a reasonable accommodation.

(g) Unauthorized Leave without Pay:

1. An employee who is absent without approval may be placed in non-pay status and may be subject to disciplinary action, up to and including termination of employment.

2. An unclassified employee who is absent from duty for three (3) consecutive workdays or equivalent without proper authorization may be considered to have voluntarily resigned. (See Rule 478-1-.15, Changes to Employment Status.)

3. A classified employee who is absent from duty for five (5) consecutive workdays or the equivalent of a scheduled workweek without proper authorization may be considered to have voluntarily resigned. (See Rule 478-1-.28, Voluntary Separations for Classified Employees.)

(h) Furlough - Insufficient Funding:

1. Due to a curtailment of funds, an agency may place employees in a non-pay status as a temporary reduction-in-force pursuant to a plan filed with the Department of Administrative Services.

2. On furlough days, an employee does not perform work and does not receive pay.

3. Employees may not be placed in non-pay furlough status for more than a total of 30 workdays in any 12-month period.

4. Absences under these circumstances will not be charged against accrued leave or compensatory time, will not be considered a break in service, and will not affect eligibility for salary increases.

(i) Temporary Layoff - Insufficient Work:

1. If sufficient work is temporarily unavailable or not feasible, the supervisor may, pursuant to a prior written employment agreement with an employee, place the employee in a non-pay status during the period.

2. The agreement should clearly specify the terms and conditions of the leave without pay and any rights to reinstatement.

3. An employee affected by a temporary layoff because of insufficient work may request the use of accrued annual leave, personal leave, deferred holiday time, or compensatory time to remain in pay status.

4. This provision may not be used in lieu of an adverse action against an employee.

(23) **FLSA Compensatory Time**:

Overtime for non-exempt employees will be governed by the provisions of the Fair Labor Standards Act (FLSA). Overtime worked by non-exempt employees will normally be credited as FLSA compensatory time at a rate of one and one-half hours of compensatory time for each hour of overtime worked. (See statewide policy #7 - Rules, Regulations and Procedures Governing Working Hours, the Payment of Overtime and the Granting of Compensatory Time.)

(a) Overtime:

1. Each agency is responsible for the control of all overtime worked in the agency and for accurately approving and recording such overtime worked in the agency time and leave system.

2. For most non-exempt employees, overtime is credited when the employee actually works more than 40 hours in a defined workweek. The overtime threshold is defined differently for law enforcement, fire protection, hospital, and nursing home employees if they use extended FLSA work period options as provided in statewide policy #7 - Rules, Regulations and Procedures Governing Working Hours, the Payment of Overtime and the Granting of Compensatory Time.

3. Time worked does not include paid time off, such as leave, holidays, or suspension.

4. Unscheduled and unauthorized overtime worked by non-exempt employees will be compensated. However, disciplinary action determined appropriate by the agency, up to and including separation from employment, may be taken against a non-exempt employee who works unscheduled or unauthorized hours.

(b) Use and Limitations of FLSA Compensatory Time:

1. An employee must be granted FLSA compensatory time off within a reasonable time after making the request if the use of such time off does not unduly disrupt operations.

2. An agency may by written policy require its employees to use accumulated FLSA compensatory time before using annual and/or sick leave.

3. For most employees, the maximum FLSA compensatory time accrual is 240 hours at any given time. The maximum accrual is 480 hours for employees in a public safety activity, emergency response activity, or seasonal activity. Compensatory time in excess of 240 hours (480 hours for employees in a public safety activity, emergency response activity, or seasonal activity) must be paid out.

(c) Payment for Overtime:

1. Employees receive pay for overtime only in the following situations:

(i) When the agency approves payment in lieu of FLSA compensatory time as provided in statewide policy #7 - Rules, Regulations and Procedures Governing Working Hours, the Payment of Overtime and the Granting of Compensatory Time.

(ii) Upon exceeding the accumulation limits of FLSA compensatory time. (See Section (23)(b)2.)

(iii) Upon separation from employment with the agency, including transfer from the agency to another State employer.

2. Payment for overtime is typically made the pay period following the pay period in which the overtime is earned. Payment for law enforcement, fire protection, hospital, and nursing home staff with unique FLSA work periods is made the pay period following the FLSA work period during which the overtime is earned.

(24) **State Compensatory Time**:

State compensatory time is hour-for-hour paid time off for employees who work longer than the normally assigned hours in a work period but do not qualify for FLSA compensatory time. Each agency by written policy defines which of its employees, if any, are eligible for state compensatory time as provided in statewide policy #7 - Rules, Regulations and Procedures Governing Working Hours, the Payment of Overtime and the Granting of Compensatory Time.

(a) The maximum state compensatory time accrual allowed is 240 hours at any given time. Any state compensatory time earned in excess of 240 hours is lost and not paid out.

(b) Generally, state compensatory time not used within one (1) year of the date that it is earned is lost and not paid out.

1. An agency may, by written policy, allow state compensatory time earned during the Public Health State of Emergency declared on March 14, 2020, and ended on July 1, 2021, to be used within two (2) years of the date it is earned.

2. Such written policy may be applied to an entire agency or may identify eligible employees or job classes of employees that were so impacted by the increased workload during the Public Health State of Emergency that the state compensatory time was unable to be used prior the regular one (1) year expiration.

(c) Unused state compensatory time is lost upon separation from employment. The employee will not be compensated for such time in any manner, and it will not transfer with the employee to another State entity.

(d) An agency may by written policy require its employees to use accumulated state compensatory time before using annual and/or sick leave.

(25) **Holidays**:

(a) Observing State Holidays:

The State observes 13 public holidays each calendar year on dates declared by the Governor. State offices are closed and employees do not report for work on declared holidays, except as noted below.

1. 24-7 operations, such as hospitals and correctional facilities, will remain open on holidays, and designated staff will report for work.

2. State operations with seasonal fluctuations that result in insufficient availability of work during certain times of the year may establish a policy for its employees to observe holidays during the work down cycle, rather than on the dates declared by the Governor. The policy must be in writing and communicated to all affected employees, and the alternate holidays must be observed within the same calendar year as the dates declared by the Governor.

3. In emergency situations or to meet essential business needs, an agency may require one or more employees to work on a holiday.

(b) Eligibility for Paid Holiday:

1. Salaried employees and other employees designated by the Georgia Industries for the Blind are eligible to receive paid time off for State holidays they observe, as provided in this Rule section.

2. To be eligible for pay on a State holiday, an employee must be in pay status for the full scheduled work shift on either the workday immediately before or immediately after the holiday. "Pay status" means either working or taking approved paid time off.

3. Employees are not paid for a holiday that occurs the day before they enter or reenter State service.

4. Employees are not paid for a holiday that occurs the day after they leave State employment.

5. Employees are not paid for a holiday that occurs on their last day of State employment, unless the holiday is at the end of their normal workweek. (See item 6, below, for an exception.)

6. The compensation for employees retiring from State employment will not be reduced when their last day of employment before retirement falls on a holiday.

7. The following employees are not eligible for paid State holidays:

(i) All temporary employees,

(ii) All hourly employees, and

(iii) Active, salaried, non-temporary employees who are rehired retirees with the Employees' Retirement System of Georgia while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

8. Part-time salaried employees and part-time employees of the Georgia Industries for the Blind are not paid for a holiday that falls on a day they would not have otherwise been scheduled to work. For example, a part-time employee who is scheduled to work Mondays, Wednesdays, and Fridays, would not be paid for a holiday that falls on a Thursday.

(c) Pay for Holidays and Provisions for Employees on Alternative Work Schedules:

1. Employees eligible for a paid holiday receive pay for the time they would otherwise have worked that day, up to a maximum of eight (8) hours.

2. An agency with full-time salaried employees on alternative work schedules will define the options available to its employees who would have been scheduled for shifts longer than eight (8) hours on the holiday. Such options include allowing employees to:

(i) Revert to an 8x5 work schedule during the week of the holiday (or for a 2-week cycle for employees on a 9-hour workday schedule);

(ii) Use paid leave to supplement the holiday pay and receive full pay for the day; or,

(iii) Work additional time during the week of the holiday to remain in pay status the full workweek.

3. An agency with full-time salaried employees on alternative work schedules whose scheduled day off falls on a holiday may allow such employees to revert to an 8x5 schedule, as indicated in Section 25(c)2, above, or allow them to remain on their alternative schedule and receive equivalent time off for the holiday, as defined in Section (25)(d), below.

(d) Equivalent Time Off or Deferred Holiday Payout:

1. Equivalent time off (i.e., deferred holiday time) will be made available to employees who would otherwise have been eligible for a paid holiday but were either required to work on part or all of a holiday or whose scheduled day off occurred on a holiday. See exceptions in (i) and (ii), below.

(i) Neither equivalent time off, nor additional compensation, will be given to those employed on an academic school year basis whose annual compensation is based on a specified number of workdays, and the holiday is a workday on which their salary is based.

(ii) Part-time employees whose scheduled day off occurred on a holiday are not given equivalent time off or additional compensation for the holiday.

2. Equivalent time off to observe the holiday will not exceed the time actually worked on the holiday or eight (8) hours, whichever is less.

3. An agency may by written policy require its employees to use deferred holiday time before using annual leave, sick leave, personal leave, or compensatory time.

4. Deferred holiday time must be used within 365 days after the day proclaimed as a holiday; otherwise, it must be paid out by the agency.

5. An employee who separates from an agency will be paid for any deferred holiday time not used or paid out prior to separation.

6. An employee will not be paid for a holiday in advance of the observance of the holiday.

7. An employee scheduled to work on a holiday who, without prior approval, fails to report for any portion of the scheduled duty will not be granted deferred holiday time for the time (if any) that was worked on the holiday. Such employee may be subject to leave without pay for the scheduled time not worked and/or other appropriate.

(e) Request to Observe Other Religious Holiday:

1. An employee may request priority consideration for time off from work to observe a religious holiday that is not observed as a State holiday. To receive priority consideration, the request should be made at least seven (7) calendar days in advance.

2. An employee may request priority consideration for up to three (3) workdays in each calendar year.

3. A request by an employee for time off for religious observance cannot be denied unless:

(i) The duties performed by the employee are urgently required, and the employee, in the agency's judgment, is the only person available who can perform the duties; or,

(ii) The agency can otherwise show that accommodating the request would be an undue hardship.

4. Any paid time off granted to observe a religious holiday will be deducted from the employee's accrued annual leave, personal leave, compensatory time, or deferred holiday time available at the time of the observance. If the employee does not have sufficient annual leave, personal leave, compensatory time, or deferred holiday time to cover the period of absence, the agency must allow leave without pay for the absence, unless doing so would be an undue hardship.

(26) **Paid Parental Leave**:

To enhance work-life balance for employees, the State provides full-time employees, as well as hourly employees who meet the criteria noted in subsection (a) 2 (ii) below, with up to 120 hours of paid parental leave in a 12-month period. Paid parental leave is not charged against an employee's accrued leave.

(a) Eligibility:

1. Eligibility for paid parental leave is based on one of the following qualifying life events:

(i) birth of the employee's child;

(ii) placement of a minor child for adoption with the employee; or

(iii) placement of a minor child for foster care with the employee.

2. To be eligible to use paid parental leave for a qualifying life event, an employee must meet one of the two following criteria:

(i) if salaried, the employee must have six continuous months of employment with an employing entity (as defined in O.C.G.A. 45-20-17(a)(2)(A)); or,

(ii) if hourly, the employee must have worked 700 hours for an employing entity (as defined in O.C.G.A. 45-20-17(a)(2)(A)) in the six months immediately preceding the first requested paid parental leave date.

Rehired retirees of the Employees' Retirement System of Georgia, whether salaried or hourly, are not eligible for paid parental leave while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

(b) Usage of Paid Parental Leave

1. An eligible employee may take a maximum of 120 hours of paid parental leave in a rolling 12-month period. The rolling period will be measured backward from the first date of leave taken. The amount of leave in a rolling 12-month period cannot exceed 120 hours, regardless of the number of qualifying events that occur during that period and regardless of transfers between employing entities (as defined in O.C.G.A. § 45-20-17(a)(2)(A)). Each state employer is responsible for conducting due diligence to ensure an employee has not exhausted the 120- hour allotment prior to approval of paid parental leave.

2. Leave may be taken as needed and in increments of less than eight hours, using the same minimum period an agency has established for other forms of paid leave.

(c) If an employee eligible for paid parental leave is also eligible for leave under the federal Family and Medical Leave Act (FMLA) (see Rule 478-1-.23, Family and Medical Leave), an agency may, by written policy, require paid parental leave to run concurrently with FMLA leave.

(d) Agencies may require employees to submit appropriate supporting documentation for the use of paid parental leave. Any required supporting documentation shall be the same as that required for the use of federal family and medical leave under Section (7) of Rule 478-1-.23, Family and Medical Leave, for the same qualifying event.

(e) Any paid parental leave remaining 12 months after the initial qualifying event shall not carry over for future use.

(f) Unused paid parental leave shall have no cash value and shall not be paid out at the time of the employee's separation from employment.

Cite as Ga. Comp. R. & Regs. R. 478-1-.16

AUTHORITY: O.C.G.A. §§ 45-20-3**,** 45-20-3.1**,** 45-20-4**.**

HISTORY: Original Rule entitled "Veteran's Preference" adopted. F. July 31, 1985, eff. July 1, 1985, as specified by the Board.

Amended: F. Jan. 22, 1988; eff. Nov. 12, 1987, as specified by the Board.

Amended: R. 478-1-.0 C repealed and renumbered R. 478-1-.16 of same title adopted. F. Aug. 11, 1992; eff. July 2, 1992, as specified by the Board.

Amended: F. Oct. 17, 1994; eff. Oct. 6, 1994, as specified by the Board.

Amended: F. Apr. 22, 1997; eff. Apr. 9, 1997, as specified by the Board.

Amended: F. Oct. 8, 1997; eff. Sept. 25, 1997, as specified by the Board.

Amended: F. Jan. 13, 2003; eff. Dec. 4, 2002, as specified by the Board.

Amended: F. Jan. 5, 2006; eff. Dec. 22, 2005, as specified by the Board.

Repealed: New Rule entitled "Absence from Work" adopted. F. Dec. 23, 2008; eff. Dec. 17, 2008, as specified by the Board.

Amended: F. Oct. 28, 2009; eff. Aug. 27, 2009, as specified by the Board.

Amended: F. July 30, 2010; eff. July 16, 2010, as specified by the Board.

Amended: F. Dec. 30, 2013; eff. Sept. 25, 2013, as specified by the Board.

Amended: F. July 1, 2015; eff. June 25, 2015, as specified by the Board.

Amended: F. Jan. 17, 2017; eff. Jan. 9, 2017, as specified by the Board.

Amended: F. July 15, 2021; eff. June 22, 2021, as specified by the Board.

Amended: F. Nov. 23, 2021; eff. Nov. 3, 2021, as specified by the Board.

Amended: F. Mar. 29, 2023; eff. Mar. 16, 2023, as specified by the Board.

Amended: F. Sept. 19, 2023; eff. Aug. 11, 2023, as specified by the Board.

Department 480. RULES OF GEORGIA STATE BOARD OF PHARMACY

Chapter 480-52. RETAIL PHARMACY REQUIREMENTS FOR DISPENSING LOW-THC PRODUCTS

480-52-.01 Definitions

(1) **"Board"** shall mean the Georgia Board of Pharmacy.

(2) **"Consultation room"** is an area adjacent to the pharmacy where patient or customer consultations are done, and more in-depth pharmacy care may be provided.

(3) **"Direct supervision"** shall mean that a pharmacist is physically present, providing care at the address listed on the pharmacy license, and is in the prescription department, consultation room, vaccination room, or areas where over-the-counter drugs, devices, or durable medical equipment are displayed. The supervising pharmacist is professionally responsible and accountable for all activities performed by authorized pharmacy personnel and is available to provide assistance and direction to authorized pharmacy personnel. This shall not require a pharmacist to maintain a direct line of sight to authorized pharmacy personnel. The supervising pharmacist shall provide a final check of prepared products and document final checks before any prescription drug is dispensed.

(4) **"Immediate notification"** shall mean written notification sent within twenty-four hours of the event.

(5) **"Low THC oil"** shall mean an oil that contains an amount of cannabidiol and not more than 5 percent by weight of tetrahydrocannabinol, tetrahydrocannabinolic acid, or a combination of tetrahydrocannabinol and tetrahydrocannabinolic acid which does not contain plant material exhibiting the external morphological features of the plant of the genus Cannabis. Such term shall not mean products approved by the federal Food and Drug Administration under Section 505 of the federal Food, Drug, and Cosmetic Act.

(6) **"Low THC Pharmacy Dispensary"** shall mean a retail pharmacy, previously licensed by the Georgia Board of Pharmacy, which has obtained a permit Low THC Pharmacy Dispensary license.

(7) **"Low THC Product"** shall mean low THC oil delivered through an oil, tincture, transdermal patch, lotion, or capsule, except as prohibited by O.C.G.A. § 16-12-234, but not including any food products infused with low THC oil, including, but not limited to, cookies, candies, or edibles.

(8) **"Pharmacy"** shall mean all areas of a facility when the prescription department is not closed or locked separately from the facility or only the area of the prescription department in those facilities where the prescription department is locked and separated.

(9) **"Pharmacy care"** shall mean those services related to the interpretation, evaluation, or dispensing of prescription drug orders, the participation in drug and device selection, drug administration, and drug regimen reviews, and the provision of patient counseling related thereto.

(10) **"Predicate Retail License"** shall mean the presently active Retail Pharmacy license, previously issued by the Georgia Board of Pharmacy, to the applicant for, or licensee of a Low THC Pharmacy Dispensary license.

(11) **"Predicate Retail Licensee"** shall mean the entity licensed by the Georgia Board of Pharmacy as a Retail Pharmacy and attendant to whose licensure a Low THC Pharmacy Dispensary license has been applied for or obtained.

(12) **"Preparation"** shall mean the functions of preparing a prescription to be dispensed, including product selection, data entry into a pharmacy dispensing system, and any other functions required to have the prescription

ready to be verified, checked, and dispensed by a pharmacist or pharmacy intern working under the direct supervision of a pharmacist.

(13) **"Prescription Department"** shall mean an area set aside for the preparation and dispensing of prescription drugs and Low THC Products. In a facility offering other departments and types of merchandise not requiring a pharmacist to be open for business, this term shall apply only to the area in which prescriptions are prepared and dispensed.

(14) **"Registered Patient"** means an individual who is legally authorized to possess and use low THC oil and products pursuant to O.C.G.A. § 31-2A-18.

(15) **"Significant adverse drug reaction"** shall mean any reaction which requires any medical treatment beyond a consultation between Pharmacist/patient, Pharmacist/Prescriber, patient/prescriber or Pharmacist/patient/Prescriber.

(16) **"Vaccination room"** is an area adjacent to the pharmacy where vaccinations are administered.

(17) **"Written notification"** shall mean in writing and sent by statutory overnight delivery or by email.

Cite as Ga. Comp. R. & Regs. R. 480-52-.01

AUTHORITY: O.C.G.A. §§ 16-12-206**,** 26-4-28**,** 26-4-110**.**

HISTORY: Original Rule entitled "Definitions" adopted. F. Sept. 14, 2023; eff. Oct. 4, 2023.

480-52-.02 Low THC Products: Inspection, Retention of Records and Security

(1) Every licensed pharmacy, possessing or having possessed any Low THC Product, within a period of two years, and/or possessing any record related to the same, shall exercise diligent care in protecting such Low THC Products and/or records related to the same from loss or theft.

(a) Records relative to Low THC Products required to be maintained in compliance with this rule shall be those records which would be required to be kept relative to a Dangerous Drug by O.C.G.A. T. Ch. 16-13. All records relative to Low THC Products shall be kept, secured, and safeguarded in the same manner as similar records relating to Dangerous Drugs.

(b) Every licensed Low THC Pharmacy Dispensary shall ensure that all Low THC Products are purchased from and/or returned to firms holding a current permit issued by the Georgia Access to Medical Cannabis Commission ("Commission"). This requirement can be met by a pharmacy maintaining a copy of such firms' current Commission permit.

(2) All Low THC Products shall be kept in the prescription department, accessible only to an authorized person, except where contained in a collection receptacle compliant with state and federal law and regulation.

(3) The Georgia Drugs and Narcotics Agency ("GDNA") shall have the authority to conduct inspections of any place or premises used by any such licensed Low THC Pharmacy Dispensary in relation to such Low THC Products and/or any records pertaining to their acquisition, dispensing, disposal, or loss.

(4) The GDNA shall have the authority to examine, copy, or remove all such records, and to examine, copy, remove, or inventory all such Low THC Products.

(a) It shall be the responsibility of such person possessing such Low THC Products and/or records to make the same available for such inspection, copying, examination, or inventorying by said GDNA.

(b) At the conclusion of an inspection, the GDNA personnel examining said Low THC Products and/or records shall have the responsibility of providing to such Low THC Pharmacy Dispensary a copy of an inspection report on

which any deficiencies or violations are listed along with any recommendations, if any, concerning the satisfactory storage, keeping, handling and security of Low THC Products.

(5) Any person possessing Low THC Products and/or records may request that such an inspection be made, and upon receipt of such written request, the GDNA Director shall make, or cause to be made, without reasonable delay, an inspection in compliance with said request.

Cite as Ga. Comp. R. & Regs. R. 480-52-.02

AUTHORITY: O.C.G.A. §§ 16-12-206**,** 26-4-28**,** 26-4-110**.**

HISTORY: Original Rule entitled "Low THC Products: Inspection, Retention of Records and Security" adopted. F. Sept. 14, 2023; eff. Oct. 4, 2023.

480-52-.03 Prescription Department, Requirement, Supervision, Hours Closed

(1) The physical spatial bounds of a Low THC Pharmacy Dispensary shall be the same as and co-terminus with, the same such space occupied by the Predicate Retail Licensee, and the activities of the Low THC Pharmacy Dispensary shall be conducted therein. That area or areas designated as the "Prescription Department" pursuant to Rule 480-10-.02(2), for the Predicate Retail Licensee shall constitute the same such area for the Low THC Pharmacy Dispensary and the activities of the Low THC Pharmacy Dispensary may be conducted therein.

(2) The pharmacist in charge of the Low THC Pharmacy Dispensary shall be the same pharmacist who is designated pharmacist in charge for the Predicate Retail Licensee, and in operation of the Low THC Pharmacy Dispensary shall be subject to Rule 480-10-.02(3).

(3) A licensed pharmacist shall be present and on duty in a Low THC Pharmacy for the same time and in the same manner as required for operation of the Predicate Retail Licensee.

Cite as Ga. Comp. R. & Regs. R. 480-52-.03

AUTHORITY: O.C.G.A. §§ 16-12-206**,** 26-4-28**,** 26-4-110**.**

HISTORY: Original Rule entitled "Prescription Department, Requirement, Supervision, Hours Closed" adopted. F. Sept. 14, 2023; eff. Oct. 4, 2023.

480-52-.04 Location of Low THC Products

(1) All Low THC Products shall be stored within the prescription department of the Predicate Retail Licensee possessing such drugs or devices; and

(a) In complying with this Rule, all Low THC Products shall, at minimum, be stored and secured in the same manner required for dangerous drugs (legend drugs) by Board Rule 480-10-.03.

(2) All Low THC Products shall be kept from the public in a secure manner.

Cite as Ga. Comp. R. & Regs. R. 480-52-.04

AUTHORITY: O.C.G.A. §§ 16-12-206**,** 26-4-28**,** 26-4-110**.**

HISTORY: Original Rule entitled "Location of Low THC Products" adopted. F. Sept. 14, 2023; eff. Oct. 4, 2023.

480-52-.05 Sufficient Space in Prescription Department

There shall be provided within the prescription department of each Low THC Pharmacy Dispensary sufficient shelf, drawer, counter or cabinet space for the neat and orderly storage of all Low THC Products, equipment, publications and other items kept therein. Low THC Products may be stored apart from or together with other dangerous drugs stored in the prescription department.

Cite as Ga. Comp. R. & Regs. R. 480-52-.05

AUTHORITY: O.C.G.A. §§ 16-12-206**,** 26-4-28**,** 26-4-110**.**

HISTORY: Original Rule entitled "Sufficient Space in Prescription Department" adopted. F. Sept. 14, 2023; eff. Oct. 4, 2023.

480-52-.06 Refrigeration

There shall be provided within each prescription department adequate facilities for the proper storage of Low THC Products which require refrigeration, and such Low THC Products shall be stored therein in such manner as to preserve their therapeutic activity.

Cite as Ga. Comp. R. & Regs. R. 480-52-.06

AUTHORITY: O.C.G.A. §§ 16-12-206**,** 26-4-28**,** 26-4-110**.**

HISTORY: Original Rule entitled "Refrigeration" adopted. F. Sept. 14, 2023; eff. Oct. 4, 2023.

480-52-.07 Licensure, Applications, and Display of License and Renewal Certificate

(1) Licensure and Applications

(a) Every Low THC Pharmacy Dispensary must be licensed by the Board in accordance with the laws and regulations of this State. The term "Low THC Pharmacy Dispensary" shall have the meaning ascribed in Board Rule 480-52-.01.

(b) All Low THC Pharmacy Dispensary licensees shall renew this license annually by June 30th with the Georgia State Board of Pharmacy; pharmacy dispensary licenses shall be issued only to those pharmacies who comply with this rule.

(c) Low THC Pharmacy Dispensary licenses shall be issued only to those licensed retail pharmacies who meet the following requirements:

1. Submission of an application with the following information:

i. The name, full business address, telephone number, and current Georgia Board of Pharmacy license number of the licensee;

ii. All trade or business names used by the licensee;

iii. Address, telephone number, and the name of the Pharmacist in Charge;

iv. The type of ownership or operations (i.e., partnership, corporation, or sole proprietorship);

v. The name(s) of the owner and/or operator of the licensee, including:

(I) If a person, the name of the person;

(II) If a partnership, the name of the partnership and the name of each partner;

(III) If a sole proprietorship, the full name of the sole proprietorship and the name of the business entity; or

(IV) If a corporation, the corporate name, the name and title of each corporate officer and director, the state of incorporation; and the name of the parent company, if any.

vi. Documentation of one of the following:

(I) Written certification from the applicant that the applicant's operation of a Low THC Pharmacy Dispensary at the proposed location would comply with the location restrictions imposed by O.C.G.A. § 16-12-215(a); or

(II) Certified copy of an Order from the local zoning authority permitting the applicant to operate a Low THC Pharmacy Dispensary in the proposed location, as provided by O.C.G.A. § 16-12-215(a).

2. Payment of an application fee. Application fees shall not be refundable.

3. Filing a report from the Director of the Georgia Drugs and Narcotics Agency (GDNA) certifying the applicant possesses the necessary qualifications for a license.

(d) Low THC Pharmacy Dispensary licenses shall be nontransferable.

(e) Low THC Pharmacy Dispensary licenses are renewed annually and expire on June 30th of each year and may be renewed upon the payment of the required fee and the filing of an application for renewal. If the application for renewal is not made and the fee paid before September 1st, of the same year, the license shall lapse and shall not be renewed except by application for a new license.

(f) Changes in any information in this rule shall be submitted to the Board prior to such change.

(g) The Board will consider the following factors in determining eligibility for licensure of applicants in charge of the facility and the applicant licensee who are applying for a Low THC Pharmacy Dispensary license:

1. Any convictions of the applicant under any Federal, State, or local laws relating to drug samples, wholesale or retail drug distribution, or distribution of controlled substances;

2. Any felony convictions of the applicant under Federal, State, or local laws;

3. The furnishing by the applicant of false or fraudulent material in any application made in connection with drug manufacturing or distribution;

4. Suspension or revocation by Federal, State, or local government of any pharmacist, pharmacy or other health care license currently or previously held by the applicant;

5. Compliance with licensing requirements under previously granted licenses;

6. Compliance with requirements to maintain and/or make available to the State Licensing Authority or to Federal, State, or local law enforcement officials, those records required to be maintained by the licensee pharmacy and by a Low THC Pharmacy Dispensary;

7. The disciplinary history of the Predicate Retail Licensee, if any; and

8. Other factors or qualifications the Board considers relevant to and consistent with the public health and safety.

(h) The Board reserves the right to deny a license to an applicant if it determines that the granting of such a license would not be in the best interest of the public.

(2) The Low THC Pharmacy Dispensary wall certificate issued by the Georgia State Board of Pharmacy (Board), along with the current renewal license of each full-time Pharmacist employed at the Low THC Pharmacy Dispensary, as well as any letter(s) from the Board which have granted a licensee any exception(s) and/or exemption(s) from this, or any other rule, shall be displayed in the same manner as that required by Rule 480-10-.06 for the Predicate Retail Licensee.

(3) No pharmacist or intern/extern shall display his or her license in any Low THC Pharmacy Dispensary where he or she is not employed or engaged in the practice of pharmacy and dispensing of Low THC Products, and shall not knowingly permit any other person to use his or her license for the purpose of misleading anyone to believe that such person is the holder or recipient of said license or intern certificate.

Cite as Ga. Comp. R. & Regs. R. 480-52-.07

AUTHORITY: O.C.G.A. §§ 16-12-206**,** 26-4-28**,** 26-4-110**.**

HISTORY: Original Rule entitled "Licensure, Applications, and Display of License and Renewal Certificate" adopted. F. Sept. 14, 2023; eff. Oct. 4, 2023.

480-52-.08 Sanitation

A Low THC Pharmacy Dispensary shall be operated in the same clean and sanitary manner as that required by Rule 480-10-.07 for the Predicate Retail Licensee.

Cite as Ga. Comp. R. & Regs. R. 480-52-.08

AUTHORITY: O.C.G.A. §§ 16-12-206**,** 26-4-28**,** 26-4-110**.**

HISTORY: Original Rule entitled "Sanitation" adopted. F. Sept. 14, 2023; eff. Oct. 4, 2023.

480-52-.09 Storage of Equipment

The required equipment of a Low THC Pharmacy Dispensary shall be cleaned and stored in the same manner as that required by Rule 480-10-.08 for the Predicate Retail Licensee.

Cite as Ga. Comp. R. & Regs. R. 480-52-.09

AUTHORITY: O.C.G.A. §§ 16-12-206**,** 26-4-28**,** 26-4-110**.**

HISTORY: Original Rule entitled "Storage of Equipment" adopted. F. Sept. 14, 2023; eff. Oct. 4, 2023.

480-52-.10 Requirements for Dispensing Low THC Products

(1) Low THC Products shall only be dispensed by a Georgia Board of Pharmacy licensed Low THC Pharmacy Dispensary.

(2) Low THC Pharmacy Dispensaries shall only dispense Low THC Products to Registered Patients and shall physically view and inspect the patient's identification and patient registry card, and shall verify the validity of the patient's registration, prior to dispensing Low THC Products.

(3) A pharmacist who dispenses Low THC Products shall seek and review information on a Registered Patient from the prescription drug monitoring program data base established pursuant to O.C.G.A. § 16-13-57 prior to dispensing Low THC Products to the Registered Patient.

(4) All Low THC Products dispensed shall be labeled by the Low THC Pharmacy Dispensary with the following information:

(a) Date the Low THC Product is dispensed to the patient;

(b) Patient identification information:

1. Patient's first and last name;

2. Patient's date of birth;

3. Patient's unique patient registry serial number;

4. Patient's caregiver's first and last name and unique patient registry serial number, if applicable.

(c) Name, address, and license number of the Low THC Pharmacy Dispensary;

(d) Directions for use of the Low THC Product; and

(e) Any cautionary statement or symbols required.

(5) Prior to dispensing any Low THC Product, a Georgia licensed pharmacist shall review the drug label to ensure compliance with Rule 480-52-.10(4).

Cite as Ga. Comp. R. & Regs. R. 480-52-.10

AUTHORITY: O.C.G.A. §§ 16-12-206**,** 26-4-28**,** 26-4-110**.**

HISTORY: Original Rule entitled "Requirements for Dispensing Low THC Products" adopted. F. Sept. 14, 2023; eff. Oct. 4, 2023.

480-52-.11 Outdated, Deteriorated Drugs

The Pharmacist in Charge of each Low THC Pharmacy Dispensary shall cause examination of the stock of the prescription department of that Pharmacy, by persons qualified to do so, and shall cause to be removed from stock all outdated and deteriorated Low THC Products, and such shall be done at regular intervals of not more than six months duration, and under no circumstances will any Low THC Pharmacy Dispensary or Pharmacist permit any Low THC Product to be dispensed which bears a date of expiration which has been reached, or any Low THC Product which is in a deteriorated condition.

Cite as Ga. Comp. R. & Regs. R. 480-52-.11

AUTHORITY: O.C.G.A. §§ 16-12-206**,** 26-4-28**,** 26-4-110**.**

HISTORY: Original Rule entitled "Outdated, Deteriorated Drugs" adopted. F. Sept. 14, 2023; eff. Oct. 4, 2023.

480-52-.12 Minimum Equipment for Prescription Departments

(1) No Low THC Pharmacy Dispensary licensed in accordance with O.C.G.A. T. 16, Ch. 12, shall engage in the practice of dispensing Low THC Products unless it shall possess the following items:

(a) Copies of and/or computer or electronic access to current reference materials appropriate to Low THC Pharmacy Dispensary practice. These reference materials shall be authoritative on at least the topics of drug interactions; patient counseling; compounding and pharmaceutical calculations; and generic substitution.

(b) The telephone number of a poison control center. This number shall be conspicuously posted within the prescription department.

(c) Current copies of and/or computer or electronic access to the following:

1. Georgia Pharmacy Practice Act, O.C.G.A. T. 26, Ch. 4;

2. Access to Medical Cannabis, O.C.G.A. T. 16, Ch. 12, Art. 9;

3. Georgia Controlled Substances Act & Dangerous Drug Act, O.C.G.A. T. 16, Ch. 13; and

4. Official Rules of the Georgia State Board of Pharmacy.

(d) Adequate supply of Low THC Products most commonly prescribed (ONLY to be on hand after a permit has been issued by the Board).

(2) The pharmacist-in-charge of a Low THC Pharmacy Dispensary may submit to the Georgia State Board of Pharmacy a typed request for a variance to these provisions relating to minimum equipment requirements. Stated reasons for application for variances must be included in submitted request. A variance may be granted by the Board only when, in the judgment of the Board, there are sound reasons for doing so which relate to the necessary or efficient delivery of health care.

(a) Any variance granted by the Board must be in writing.

Cite as Ga. Comp. R. & Regs. R. 480-52-.12

AUTHORITY: O.C.G.A. §§ 16-12-206**,** 26-4-28**,** 26-4-110**.**

HISTORY: Original Rule entitled "Minimum Equipment for Prescription Departments" adopted. F. Sept. 14, 2023; eff. Oct. 4, 2023.

480-52-.13 Destruction of Low THC Products

Low THC Products which are outdated or expired must be disposed of by return to the originating Georgia Access to Medical Cannabis Commission licensed producer.

Cite as Ga. Comp. R. & Regs. R. 480-52-.13

AUTHORITY: O.C.G.A. §§ 16-12-206**,** 26-4-28**,** 26-4-110**.**

HISTORY: Original Rule entitled "Destruction of Low THC Products" adopted. F. Sept. 14, 2023; eff. Oct. 4, 2023.

480-52-.14 Security System Approval

As set forth by O.C.G.A. § 16-12-206(b)(9), the Board may provide in its rules and regulations the manner in which the prescription department of a Low THC Pharmacy Dispensary may be secured. This requirement will be met in in the same manner described in Rule 480-10-.16 for the Predicate Retail Licensee.

Cite as Ga. Comp. R. & Regs. R. 480-52-.14

AUTHORITY: O.C.G.A. §§ 16-12-206**,** 26-4-28**,** 26-4-110**.**

HISTORY: Original Rule entitled "Security System Approval" adopted. F. Sept. 14, 2023; eff. Oct. 4, 2023.

480-52-.15 Required Notifications to the Board

A Low THC Pharmacy Dispensary shall be required to provide immediate notification to the Board of any event the occurrence of which the Predicate Retail Licensee would be required to immediately notify the Board pursuant to Rule 480-10-.20(2).

Cite as Ga. Comp. R. & Regs. R. 480-52-.15

AUTHORITY: O.C.G.A. §§ 16-12-206**,** 26-4-28**,** 26-4-110**.**

HISTORY: Original Rule entitled "Required Notifications to the Board" adopted. F. Sept. 14, 2023; eff. Oct. 4, 2023.

480-52-.16 Purchase of Low THC Products by a Low THC Pharmacy Dispensary

All Low THC Pharmacy Dispensaries are required to purchase or receive Low THC Products from a firm licensed by the Georgia Access to Medical Cannabis Commission.

Cite as Ga. Comp. R. & Regs. R. 480-52-.16

AUTHORITY: O.C.G.A. §§ 16-12-206**,** 26-4-28**,** 26-4-110**.**

HISTORY: Original Rule entitled "Purchase of Low THC Products by a Low THC Pharmacy Dispensary" adopted. F. Sept. 14, 2023; eff. Oct. 4, 2023.

Department 510. RULES OF STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS

Chapter 510-3. LICENSURE BY ENDORSEMENT

510-3-.01 Application Process: Forms, Fees, and Deadlines

(1) Licensure by endorsement refers to licensure for applicants who hold current licenses in psychology in other states and are applying for licensure in Georgia. To apply requires:

(a) Completed Application Initiation Form including all supporting documents and the fee made payable to the Georgia Board.

(b) Completed registration as required by the Board to cause the submission of a criminal background check as required by O.C.G.A. §§ 43-39-6 and 43-39-8(b)(6). The applicant shall be responsible for all fees associated with the performance of such background check.

(c) Once registered with the Georgia Board, the Association of State and Provincial Psychology Boards will notify applicants to register for participation in their Psychology Licensure Universal System program application process.

(2) The Board may in its discretion deny licensure to an applicant who has had disciplinary action taken against him or her by any licensing authority or professional organization, or whose record reflects any other matter that puts in question his or her competency to practice.

Cite as Ga. Comp. R. & Regs. R. 510-3-.01

AUTHORITY: O.C.G.A. §§ 43-1-2**,** 43-1-7**,** 43-1-19**,** 43-1-24**,** 43-1-25**,** 43-39-5**,** 43-39-6**,** 43-39-8**,** 43-39-10**,** 43-39-13**.**

HISTORY: Original Rule entitled "Reciprocal Agreements" adopted. F. and eff. June 30, 1965.

Repealed: New Rule entitled "Reciprocity Agreements" adopted. F. Jan. 3, 1973; eff. Jan. 23, 1973.

Repealed: New Rule entitled "Waiver of the Written Examination" adopted. F. July 18, 1986; eff. August 7, 1986.

Repealed: New Rule entitled "Application for Licensure" adopted. F. Feb. 25, 1992; eff. Mar. 16, 1992.

Repealed: New Rule entitled "Americans With Disabilities Act" adopted. F. Jan. 13, 1993; eff. Feb. 2, 1993.

Repealed: New Rule of same title adopted. F. Apr. 7, 1993; eff. Apr. 27, 1993.

Repealed: New Rule entitled "Application Process: Forms, Fees and Deadlines" adopted. F. July 27, 1994; eff. August 16, 1994.

Repealed: New Rule of same title adopted. F. Oct. 29, 2003; eff. Nov. 18, 2003.

Repealed: New Rule of same title adopted. F. Jun. 4, 2014; eff. Jun. 24, 2014.

Amended: F. Sept. 25, 2023; eff. Oct. 15, 2023.

Department 510. RULES OF STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS

Chapter 510-7. RENEWAL/REINSTATEMENT/INACTIVE LICENSE

510-7-.03 Inactive Status

(1) A person must have a current Georgia psychology license to practice psychology in Georgia or to use the title "psychologist" in Georgia.

(a) A licensee who holds a current license, and who will not use the title "psychologist" in Georgia and will not practice psychology in Georgia, may apply for Inactive Status by completing an Application for Inactive Status and submitting the appropriate fee (see Fee Schedule) to the Board. A licensee may not use his or her license in the State of Georgia while that license is on Inactive Status.

(b) A licensee who wishes to reactivate an inactive license, shall submit an application for reinstatement in accordance with Board Rule 510-7-.02.

Cite as Ga. Comp. R. & Regs. R. 510-7-.03

AUTHORITY: O.C.G.A. §§ 43-1-19**,** 43-1-22**,** 43-1-25**,** 43-39-5**,** 43-39-13**,** 43-39-15

HISTORY: Original Rule entitled "Inactive Status" adopted. F. July 27, 1994; eff. August 16, 1994.

Repealed: New Rule of same title adopted. F. Oct. 29, 2003; eff. Nov. 18, 2003.

Repealed: New Rule of same title adopted. F. June 25, 2009; eff. July 15, 2009.

Amended: F. May 8, 2013; eff. May 28, 2013.

Amended: F. Mar. 28, 2018; eff. Apr. 17, 2018.

Amended: F. Sept. 25, 2023; eff. Oct. 15, 2023.

Department 510. RULES OF STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS

Chapter 510-8. CONTINUING EDUCATION REQUIREMENTS

510-8-.01 Continuing Education Requirements

(1) A total of 40 credits of continuing education relevant to the licensee's professional activities are required biennially to renew a license. Six CE credits must be earned in professional ethics at a workshop attended either in person or a synchronous webinar. The renewal period runs from January 1 of an odd numbered year to December 31 of the following even numbered year. Time counted shall be a clock hour for each hour's CE credit. Each psychologist shall report biennially on the renewal application, under oath, the number of CE credits of continuing education he/she completed.

(2) Psychologists who are licensed by examination or by endorsement during the first year of the biennium (between January 1 and December 31 of the odd numbered year) must obtain 20 CE credits of continuing education, 3 CE credits of which must be in professional ethics.

(3) Psychologists who are licensed by examination or by endorsement during the second year of the biennium (between January 1 and December 31 of the even numbered year) will not be required to complete any continuing education credits to renew the license for the first time.

(4) Psychologists with disabilities may petition the Board for accommodations that facilitate their satisfaction of these requirements. The request for an accommodation by an individual with a disability must be made in writing and received in the Board office by at least 2 months prior to the end of the renewal period along with the appropriate documentation, as indicated in the Request for Disability Guidelines.

Cite as Ga. Comp. R. & Regs. R. 510-8-.01

AUTHORITY: O.C.G.A. §§ 43-1-19**,** 43-1-25**,** 43-39-5**,** 43-39-12**,** 43-39-15**.**

HISTORY: Original Rule entitled "Temporary License" adopted. F. July 18, 1986; eff. August 7, 1986.

Repealed: New Rule entitled "Continuing Education Requirements" adopted. F. July 27, 1994; eff. August 16, 1994.

Amended: F. Mar. 29, 1996; eff. Apr. 18, 1996.

Amended: F. Nov. 27, 1996; eff. Dec. 17, 1996.

Amended: F. Feb. 25, 1997; eff. Mar. 17, 1997.

Amended: F. Aug. 11, 1997; eff. Aug. 31, 1997.

Repealed: New Rule of same title adopted. F. Apr. 2, 2001; eff. Apr. 22, 2001.

Repealed: New Rule of same title adopted. F. Oct. 29, 2003; eff. Nov. 18, 2003.

Repealed: New Rule of same title adopted. F. Jul. 30, 2013; eff. Jan. 1, 2015, as specified by the Agency.

Amended: F. Sept. 25, 2023; eff. Oct. 15, 2023.

510-8-.02 Types of Continuing Education

(1) "In-person" means being present in the same physical room (as opposed to a virtual space).

(2) "Face-to-face" means either in-person or a synchronous activity (not asynchronous activity).

(3) "Synchronous activities" mean live online interactive video conferences in real time.

(4) "Asynchronous activities" mean online courses or recordings of previously held programs that one can access on one's own schedule.

(5) Successful completion of the board examination of the American Board of Professional Psychology will satisfy all continuing education requirements in the biennium during which the examination is passed. Documentation from ABPP must be submitted to the Board.

(6) Professional Ethics. A licensed psychologist shall complete a minimum of 6 CE credits in professional ethics either at an in-person workshop or at a synchronous webinar to renew his/her license each biennium. These credits may be earned through Areas I or III. The content of the ethics CE requirement must be related to ethical, legal, statutory, or regulatory policies, guidelines, and/or standards that impact psychology and must be postdoctoral in nature. A psychologist who serves as a peer reviewer for the Board for an alleged violation of the laws or rules will earn 3 ethics CE credits for the current biennium if the completion of the review is acknowledged by the Board and if the review is submitted as a written report to the Board. A psychologist who serves on a subcommittee of the Board for oral examinations will be awarded 3 ethics CE credits for each day of service up to a maximum of 6 CE credits per biennium. A psychologist who serves as a member of the Ethics committee for the Georgia Psychological Association or as a Board member of the State Board of Examiners of Psychologists for the entire biennium will receive 6 ethics credits. If a psychologist serves as a member of the Georgia Psychological Association Ethics Committee or the Georgia State Board of Psychologists for half of the biennium, 3 ethics credits will be awarded; for service six months or less, 1 ethics credit will be awarded. The delivery method of the continuing education shall be in person or synchronous.

(7) Continuing Education credits may be met through the following areas. Each area states the minimum (if applicable) and maximum number of credits allowed as well as the required documentation. All credits in areas I (1, 2), II III may be obtained through in-person, face-to-face, synchronous, or asynchronous methods as defined in 510-8-.02 (1-4) above or as defined in the specific area description.

(a) **Area I - Academic.** This area includes three academic activities: Academic Courses, Instruction, and Publications. A maximum of 20 CE credits per biennium may be earned through Area I.

1. Academic courses refers to taking, for credit, and passing a graduate-level course related to psychology from a regionally accredited university. A maximum of 20 CE credits per biennium is allowed for this activity. Required documentation is a graduate transcript showing the course taken and passing grade.

2. Instruction refers to teaching, for the first time, a semester long (or equivalent) graduate or undergraduate course related to psychology in a regionally accredited institution. This activity counts for a maximum of 10 CE credits per course with a maximum of 20 CE credits per biennium. Instruction also refers to presenting for the first time, a day-long (6 credit hour) approved sponsor workshop or half-day long (3 credit hour) approved sponsor workshop that relates to the practice of psychology. For first time presented sponsor approved workshops, each hour of presentation counts for one hour of CE credit. A maximum of 12 CE credits each biennium is allowed for two 6-hour workshops and a maximum of 6 CE credits each biennium is allowed for two 3-hour workshops. Approved sponsors are identified in Area IV below. Both of these instructional activities (teaching a course or presenting a workshop) will count only when the course or presentation is conducted for the first time. Required documentation is both a copy of the presentation announcement, course catalog noting the course taught and instructor, or registration materials indicating the presentation; and an attestation from the psychologist stating that the course or workshop is being presented for the first time.

3. Publications refers to first or second authoring of articles published in peer reviewed journals, books or book chapters, or editing or co-editing of a book or peer-reviewed journal related to the profession of psychology. A

maximum of 5 CE credits per article for a total of 10 CE credits per biennium is allowed for publications. Required documentation is a copy of the journal abstract, book table of contents, or book or journal editor page inclusive of the author's name.

(b) **Area II - Ongoing Group Consultation.** This area includes research groups, journal clubs, and individual and group case consultation that have a structured, organized format, that meets regularly either in-person or synchronously, and focuses on psychological activities related to one's practice. See Board Rule 510-4-.02(4)(g)4.07. A group shall consist of a minimum of three (3) psychologists and up to a maximum eight (8) licensed participants. The group leader shall be a psychologist, with an unencumbered license to practice psychology in Georgia, and is included as one of the required minimum three (3) psychologists. If one gets credit from this area, one must have a minimum of 10 CE credits from this area and a maximum of 20 CE credits from this area, with one hour of group consultation equal to one credit. This means that any group consultation activity must have at least a minimum of ten one-hour sessions in length. However, one can only count a maximum of 20 one-hour sessions for credit under this area. Required documentation is a contemporaneous log with a list of dates attended, topics discussed, location, identification of participants, and number of hours. The log must be attested to and notarized by the psychologist who is designated as the leader of the group consultation.

(c) **Area III - Approved Sponsored Continuing Education.** This area refers to participation in any activity provided by approved sponsor organizations described below. A maximum of 40 CE credits per biennium is allowed in this area with one hour of activity being equal to 1CE credit. Required documentation is an official certificate of attendance/participation issued by the CE presenter/sponsoring organization and includes date, title, location, and hours. The delivery method of the continuing education by the presenter and the attendance of the psychologist at the continuing education event may be in person, synchronous, or asynchronous.

Approved sponsors of continuing education may include State Psychological Associations, the American Psychological Association or any of its approved sponsors approved through the American Psychological Association Sponsor Approval System (APA Standards and Criteria for Approval of Sponsors of Continuing Education for Psychologists, 2005), the Canadian Psychological Association Approval of Sponsor of Continuing Education for Canadian Psychologists (CPA, 2005), the Academies of the Specialty Boards of the American Board of Professional Psychology, Association for Psychological Science, National Association of School Psychologists, regionally accredited educational institutions that offer graduate training in psychology or related fields, Federal and State Government entities providing training at the post-doctoral level by licensed psychologists. Category I Continuing Medical Education (CME) of the American Medical Association, the Canadian Medical Association, American Bar Association, and the Canadian Bar Association, if relevant to the practice of psychology.

Cite as Ga. Comp. R. & Regs. R. 510-8-.02

AUTHORITY: O.C.G.A. §§ 43-1-19**,** 43-1-25**,** 43-39-5**,** 43-39-6**,** 43-39-13**,** 43-39-15**.**

HISTORY: Original Rule entitled "Types of Continuing Education" adopted. F. July 27, 1994; eff. August 16, 1994.

Amended: F. Oct. 6, 1995; eff. Oct. 26, 1995.

Amended: F. Nov. 27, 1996; eff. Dec. 17, 1996.

Amended: F. Feb. 25, 1997; eff. Mar. 17, 1997.

Amended: F. May 1, 1998; eff. May 21, 1998.

Repealed: New Rule of same title adopted. F. Apr. 2, 2001; eff. Apr. 22, 2001.

Repealed: New Rule of same title adopted. F. Oct. 29, 2003; eff. Nov. 18, 2003.

Amended: F. Aug. 26, 2008; eff. Sept. 15, 2008.

Amended: F. June 25, 2009; eff. July 15, 2009.

Repealed: New Rule of same title adopted. F. Jul. 30, 2013; eff. Jan. 1, 2015, as specified by the Agency.

Amended: F. Oct. 5, 2017; eff. Oct. 25, 2017.

Amended: F. Sept. 25, 2023; eff. Oct. 15, 2023.

Department 510. RULES OF STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS

Chapter 510-9. LICENSES OF LIMITED DURATION

510-9-.01 Temporary License

A temporary license is available only to applicants for licensure by endorsement. See Chapter entitled "Licensure by Endorsement."

(a) The applicant for a temporary license must submit a written request for a temporary license along with their application for licensure by endorsement and the appropriate fee. See Fee Schedule.

(b) The Board will consider the request for a temporary license only after the application for licensure by endorsement is complete. The applicant must have taken and passed both the EPPP and the Georgia Jurisprudence examination and the Board has determined that the applicant is eligible to sit for the required oral examination.

(c) The Temporary License will be in effect for a maximum of 12 months. To continue to practice psychology in Georgia beyond that year, the holder must have obtained a license to practice psychology by endorsement.

Cite as Ga. Comp. R. & Regs. R. 510-9-.01

AUTHORITY: O.C.G.A. §§ 43-1-2**,** 43-1-7**,** 43-1-19**,** 43-1-25**,** 43-39-5**,** 43-39-6**,** 43-39-8**,** 43-39-9**,** 43-39-10**,** 43-39-13**,** 43-39-14**.**

HISTORY: Original Rule entitled "Title Licensed Psychologist" adopted. F. July 18, 1986; eff. August 7, 1986.

Repealed: New Rule entitled "Without A License" adopted. F. May 11, 1992; eff. May 31, 1992.

Repealed: New Rule entitled "Temporary License" adopted. F. July 27, 1994; eff. August 16, 1994.

Amended: F. May 1, 1998; eff. May 21, 1998.

Repealed: New Rule of same title adopted. F. Oct. 7, 2003; eff. Oct. 27, 2003.

Amended: F. Sept. 29, 2015; eff. Oct. 19, 2015.

Amended: F. Sept. 25, 2023; eff. Oct. 15, 2023.

510-9-.03 Permission for Limited Practice

(1) An individual licensed to practice psychology at the doctoral level in another jurisdiction may practice psychology in Georgia without applying for a Georgia license, so long as the following requirements are met:

(a) At least 5 days before the intended practice, the individual notifies the Board of their intent to practice in Georgia with dates, address, and nature of intended practice and submits a verification form from their jurisdiction of licensure indicating no history of disciplinary action.

(b) The psychologist must limit his/her practice in Georgia to a maximum of 30 days per calendar year (a day being defined as any part of a day where psychological work is performed). This permission for limited practice only applies to individuals who are currently **not** seeking licensure in Georgia.

(c) The state of Georgia provides that a person must be licensed as a psychologist in the state to render psychological services however, the following are exempted: The activities and services of a nonresident of the state of Georgia who renders consulting or other psychological services if such activities and services are rendered in cooperation with the American Red Cross, the International Critical Incident Stress Foundation, or as a member of the Disaster Response Network of the American Psychological Association or the Georgia Psychological Association or other nationally recognized disaster response networks. The Board shall be informed prior, if possible, to the initiation of said services.

(2) To practice temporarily, in person face-to-face psychology under the authority of PSYPACT, individuals shall:

(a) Hold a valid Interjurisdictional Practice Certificate (IPC) from ASPPB.

(b) Hold a valid Temporary Authorization to Practice (TAP) from the PSYPACT Commission.

(c) Once the IPC and TAP have been obtained, psychologists can practice temporarily in Georgia for up to 30 days per calendar year without having to obtain additional licenses and

(d) Items (a) and (b) shall be renewed annually to continue practice.

Cite as Ga. Comp. R. & Regs. R. 510-9-.03

AUTHORITY: O.C.G.A. §§ 43-1-10**,** 43-1-19**,** 43-1-24**,** 43-1-25**,** 43-39-5 **to** 43-39-7**,** 43-39-14**,** 43-39-17**,** 43-39-18**.**

HISTORY: Original Rule entitled "Exceptions" adopted. F. May 11, 1992; eff. May 31, 1992.

Repealed: New Rule entitled "Permission for Limited Practice" adopted. F. July 27, 1994; eff. August 16, 1994.

Repealed: New Rule of same title adopted. F. Oct. 7, 2003; eff. Oct. 27, 2003.

Repealed: New Rule of same title adopted. F. Mar. 28, 2008; eff. Apr. 17, 2008.

Amended: F. Sept. 25, 2023; eff. Oct. 15, 2023.

Department 560. RULES OF DEPARTMENT OF REVENUE

Chapter 560-2. ALCOHOL AND TOBACCO DIVISION

Subject 560-2-2. GENERAL PROVISIONS

560-2-2-.25 Sales to Minors; Exceptions

No Licensee, employee of such Licensee, or any person acting on behalf of or with the knowledge of such Licensee shall give, sell, offer to sell, furnish, cause to be furnished, or offer to furnish any Alcoholic Beverage to any person who is under the lawful drinking age as established by Georgia law.

Cite as Ga. Comp. R. & Regs. R. 560-2-2-.25

AUTHORITY: O.C.G.A. §§ 3-2-2**,** 3-3-23**,** 48-2-12**.**

HISTORY: Original Rule entitled "Restriction to Retail Dealers and Retail Consumption Dealers" adopted. F. May 5, 1982; eff. May 25, 1982.

Amended: F. Dec. 13, 2002; eff. Jan. 2, 2003.

Repealed: New Rule entitled "Sales to Minors; Exceptions" adopted. F. Oct. 1, 2010; eff. Oct. 21, 2010.

Amended: F. May 31, 2023; eff. June 20, 2023.

Note: Correction of non-substantive typographical error in Authority, "**Authority: O.C.G.A. §§ 3-2-2, 3-2-23, 48-2-12**." corrected to "**Authority: O.C.G.A. §§ 3-2-2, 3-3-23, 48-2-12.**" (i.e., "3-2-23" corrected to "3-3-23"), as requested by the Agency. Effective September 5, 2023.

Department 560. RULES OF DEPARTMENT OF REVENUE

Chapter 560-2. ALCOHOL AND TOBACCO DIVISION

Subject 560-2-3. RETAILER/RETAIL CONSUMPTION DEALER

560-2-3-.12 Retailer of Distilled Spirits License

(1) Every applicant for a State license as a Retailer of Distilled Spirits shall comply with the requirements and qualifications set forth in Rule 560-2-2-.02 of these Regulations and this Rule. The requirements and qualifications in this Rule are cumulative and not in lieu of any requirements and qualifications of Rule 560-2-2-.02.

(2) In all cases where the owner of the business is a resident individual, the application shall be made in that name.

(a) Where the owner is a partnership, association, or non-resident of a county or municipality in which the sale of Distilled Spirits is authorized, the application shall be made in the name of a resident officer of a county in which the sale of Distilled Spirits is authorized, partner or associate owning a substantial interest in the business, or in the name of the principal resident managing officer, and the application shall show that the license is for the use of the owner, and the owner shall be named, and both shall be bonded;

(b) In the event the owner is a corporation or fraternal organization, the application may be submitted as set forth in Rule 560-2-2-.02 of these Regulations.

(3) A separate Retailer license shall be required for each Place of Business.

(4) The requirement that an applicant's license be for the same location may be waived by the Department where the location previously occupied was lost as the result of the judgment of a court of general jurisdiction involving no fault or default of the Person under whom the applicant had occupied the Premises, the condemnation of the property by an authority having the power of eminent domain, or the due acquisition of the property of such authority under the threat of condemnation.

(a) The requirement that an applicant's license be for the same location may be waived by the Department where the net effect of the proposed change is to reduce the number of package stores attributed to a Person or in which an applicant and his family holds an interest.

(5) No Retailer of Distilled Spirits shall be approved where the Licensee pays to any Person, firm or corporation any rent, management fee, or other payment based on the profits or sales of such licensed Premises.

(a) Every applicant for a retail license for Distilled Spirits shall attach to the application a copy of the applicant's lease if the applicant is leasing the Premises. The application will be denied if the rental payments are anything other than fixed amounts reasonable for the area and consistent with rent paid for similar accommodations by other retail business establishments.

(6) All leases for a Retailer of Distilled Spirits shall be in writing and for a term not less than the period of such license. In the event the lease is terminated for any reason, the retail license shall be terminated immediately.

(7) Application for a Retailer of Distilled Spirits for a location that has not been licensed in the previous twelve (12) months shall include a certificate or scale drawing of a registered surveyor that the proposed location complies with the Act in regard to distances from alcohol treatment centers, churches, schools, and licensed locations for retail sale of Distilled Spirits.

(8) Pursuant to O.C.G.A. § 3-4-21, no person shall be issued more than two Retailer of Distilled Spirits licenses, nor shall any person be permitted to have a beneficial interest in more than two Retailer of Distilled Spirits licenses, regardless of the degree of such interest, except under subparagraph (b) of this paragraph 8.

(a) For purposes of this regulation, a person shall be deemed to have a beneficial interest in a Retailer license when they:

1. Holds a Retailer of Distilled Spirits license;

2. Has any ownership interest, whether legal, equitable or other, in or control over a retail distilled spirits business;

3. Holds a retail license for or has any ownership interest in a beer or wine business which is conducted in conjunction with or immediately adjacent to a retail distilled spirits business; or

4. Holds the license for or has any ownership interest in any retail Alcoholic Beverage business and has any financial, contractual, or other business interest, including any lease arrangement, in or with a retail distilled spirits business or licensee.

(b) Under the *de minimis* concept, a person who owns less than five percent (5%) of the shares of a corporation which has more than thirty-five (35) shareholders or whose stock is publicly traded shall not, on the fact of stock ownership alone, be deemed to have a beneficial interest in the retail distilled spirits business of such corporation.

(9) With regards to tasting events, should any broken package containing Alcoholic Beverages be stored by a Retail Package Liquor Store not licensed for retail sales for consumption on the premises pursuant to O.C.G.A. § 3-15-2(9), such package shall be considered an "open package" at all subsequent tasting events for purposes of O.C.G.A. § 3-15-2(3) until such package is entirely consumed or disposed of.

Cite as Ga. Comp. R. & Regs. R. 560-2-3-.12

AUTHORITY: O.C.G.A. §§ 3-2-2**;** 3-4-21**,** 3-15-2**,** 3-15-3**,** 48-2-12**.**

HISTORY: Original Rule entitled "Bill of Lading in Advance of Shipment" adopted. F. and eff. June 30, 1965.

Repealed: New Rule entitled "Producers Monthly Report: Invoices" adopted. F. May 13, 1975; eff. June 2, 1975.

Repealed: New Rule entitled "Application a Permanent Record; Specification of Premises: Licenses Valid After December 31" adopted. F. May 5, 1982; eff. May 25, 1985.

Repealed: New Rule entitled "Specification of Premises" adopted. F. Dec. 15, 2006; eff. Jan. 4, 2007.

Repealed: New Rule entitled "Retailer License" adopted. F. Oct. 1, 2010; eff. Oct. 21, 2010.

Amended: New title, "Retailer of Distilled Spirits License." F. May 31, 2023; eff. June 20, 2023.

Note: Correction of non-substantive typographical errors in paragraph (9), "… pursuant to O.G.C.A. 3-15-2(9)," and "… purposes of O.G.C.A. § 3-15-2(3)," corrected to "… pursuant to O.C.G.A. 3-15-2(9)," and "… purposes of O.C.G.A. § 3-15-2(3)," respectively (i.e., "O.G.C.A." corrected to "O.C.G.A."), as requested by the Agency. Effective September 5, 2023.