



Medication Errors Highlight Top 10 Violations for Personal Care Homes

Hedy S. Rubinger and Doug M. Hance

The Georgia Department of Community Health recently published a “top ten” list of the most common violations for Georgia personal care homes. Several of the most common violations relate to medication errors and the use of proxy caregivers. The top ten violations are as follows:

1. #2002 (Medications): Improperly assisting with medications (not using a proxy caregiver).
2. #1610 (Admission Agreement): No statement in the admission agreement regarding proxy caregivers.
3. #2010 (Medications): Basic medication training for all staff assisting with medications.
4. #2420 (Resident Files): No copy of the search results from the National Sex Offender Registry.
5. #1611 (Admission Agreement): Admission agreement has to disclose how and by what level of staff medications are handled in the home.
6. #1508 (Admission): Physical examination within 30 days prior to admission date, using the Specific Report of Physical Examination form made available by the Department of Community Health on its website. The required report must be completed in its entirety.
7. #0913 (Workforce Qualifications and Training): Employees must receive tuberculosis screening and a physical examination within 12 months prior to hire.
8. #0909 (Workforce Qualifications and Training): Infection control training required.
9. #2021 (Medications): Medication Administration Record requirements include side effects and adverse reactions for use of each medication.
10. #1502 (Admission): Non-ambulatory residents being admitted or retained.

A “proxy caregiver” is an unlicensed person who has been deemed qualified to perform documented health maintenance activities for an individual with a disability who has delegated to the designated proxy caregiver the performance of such health maintenance activities through the execution of a written informed consent. “Health maintenance activities” are activities that, but for a disability, a person could reasonably be expected to do for himself or herself.

Licensed facilities are not permitted to use paid unlicensed staff to perform health maintenance activities (such as assistance with medications) for a person with a disability, who would be performing the function if he or she did not have the disability. In these situations, personal care homes must use a proxy caregiver.

Medications for residents living in the memory care unit of a personal care home must be provided by either or both of the following:

1. A licensed registered nurse or a licensed practical nurse who is working under the supervision of a licensed physician or registered nurse.
2. A proxy caregiver employed by the personal care home in compliance with the Rules and Regulations for Proxy Caregivers (GA. COMP. R. & REGS. 111-8-100).¹

¹ GA. COMP. R. & REGS. 111-8-62-.19(5)(a).

The Georgia personal care home regulations also provide that staff assisting or supervising residents who are not capable of independent self-administration of medication may perform the following:

1. Take the medication, in its previously dispensed, properly labeled container, from where it is stored, and bring the medication to the resident.
2. Read the label, open the container, remove a prescribed amount of medication from the container, and close the container, in the presence of the resident.
3. Place an oral dosage in the resident's hand or in another container where the resident requests assistance.
4. Apply topical medications.
5. Assist with self-administration of drops, inhalers, nasal sprays and patches.
6. Return the medication container to proper secured storage.
7. Assist the resident's use of an EPI pen where the resident has known severe allergies for which an EPI pen has been prescribed on the condition that there is an established written protocol detailing how it is to be used and when.²

Personal care homes must provide and document medication training for the unlicensed staff members who provide assistance with or supervision of self-administration of medications to capable residents.³

² GA. COMP. R. & REGS. 111-8-62-.20(2)(a).

³ GA. COMP. R. & REGS. 111-8-62-.20(3).

Authors and Contributors

Hedy S. Rubinger
Partner, Atlanta Office
404.873.8724
hedy.rubinger@agg.com

Doug M. Hance
Associate, Atlanta Office
404.873.8104
doug.hance@agg.com

not *if*, but *how*.[®]

About Arnall Golden Gregory LLP

Arnall Golden Gregory, a law firm with more than 150 attorneys in Atlanta and Washington, DC, employs a “business sensibility” approach, developing a deep understanding of each client’s industry and situation in order to find a customized, cost-sensitive solution, and then continuing to help them stay one step ahead. Selected for The National Law Journal’s prestigious 2013 Midsize Hot List, the firm offers corporate, litigation and regulatory services for numerous industries, including healthcare, life sciences, global logistics and transportation, real estate, food distribution, financial services, franchising, consumer products and services, information services, energy and manufacturing. AGG subscribes to the belief “not if, but how.” Visit www.agg.com.

Atlanta Office
171 17th Street NW
Suite 2100
Atlanta, GA 30363

Washington, DC Office
1775 Pennsylvania Ave., NW,
Suite 1000
Washington, DC 20006

To subscribe to future alerts, insights and newsletters: <http://www.agg.com/subscribe/>

©2014. Arnall Golden Gregory LLP. This legal insight provides a general summary of recent legal developments. It is not intended to be, and should not be relied upon as, legal advice. Under professional rules, this communication may be considered advertising material.