



GEORGIA DEPARTMENT
OF COMMUNITY HEALTH

PERSONAL CARE HOME PROGRAM



REGULATORY UPDATES

Presented by

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GEORGIA DEPARTMENT
OF COMMUNITY HEALTH

Mission:

The mission of the Department of Community Health is to provide access to affordable, quality health care to Georgians through effective planning, purchasing, and oversight.

CURRENT UPDATES



GEORGIA DEPARTMENT
OF COMMUNITY HEALTH

Implementation of the Georgia Long-term Care Background Check Program

O.C.G.A. § 31-7-350 et seq.

Criminal Background Checks Requirements

The Georgia Long-term Care Background Check Program requires fingerprint criminal background checks of:

- owners
- applicants for employment
- direct access employees

Personal Care Homes

Assisted Living Communities

Adult Day Centers



OWNERS

individual or any person affiliated with a corporation, partnership, or association, who has **10 percent or greater ownership interest** in a facility and who performs one or more of the following:

- purports to or exercises authority of a facility;
- applies to operate or operates a facility;
- maintains an office on the premises of a facility;
- resides at a facility;
- has direct access at a facility;
- provides direct personal supervision of facility personnel by being immediately available to provide assistance and direction when such facility services are being provided; or
- enters into a contract to acquire ownership of a facility.



DIRECT ACCESS EMPLOYEES

Direct access means having, or expecting to have, duties that involve **routine personal contact** with a patient, resident, or client, including face-to-face contact, hands-on physical assistance, verbal cuing, reminding, standing by or monitoring, or activities that require the person to be **routinely alone with** the patient's, resident's, or client's property **or access** to such **property or financial information** such as the patient's, resident's, or client's checkbook, debit and credit cards, resident trust funds, banking records, stock accounts, or brokerage accounts.



EMPLOYEES

Employee means any individual who has direct access and who is hired by a facility **through employment, or through a contract** with such facility, including, but not limited to, housekeepers, maintenance personnel, dieticians, and any **volunteer who has duties that are equivalent** to the duties of an employee providing such services.



EMPLOYEES EXCLUDED

Shall not include an individual who contracts with the facility, whether personally or through a company, to provide utility, construction, communications, accounting, quality assurance, human resource management, information technology, legal, or other services if the contracted services are not directly related to providing services to a patient, resident, or client of the facility.



EMPLOYEES EXCLUDED

Any health care provider, including, but not limited to, physicians, dentists, nurses, and pharmacists who are licensed by the Georgia Composite Medical Board, the Georgia Board of Dentistry, the Georgia Board of Nursing, or the State Board of Pharmacy.



EMPLOYEES EXCLUDED

In order for the professional licensing exemption to apply, the facility must verify that the individual's Georgia license is in good standing. If the license has expired or has been revoked, a fingerprint background check is required. If the facility wants to require a fingerprint background check for licensed professionals, it can do so as a matter of policy.



Question

Are volunteers that come to the facility to participate in group setting activities subject to a fingerprint criminal records check?

The definition of “direct access” requires routine personal contact. In most instances, this will involve a private setting that is one-on-one with no supervision



EXAMPLES

If a home hires a magician to do a performance in a common area for a special event would that meet the definition of a direct access employee?

NO



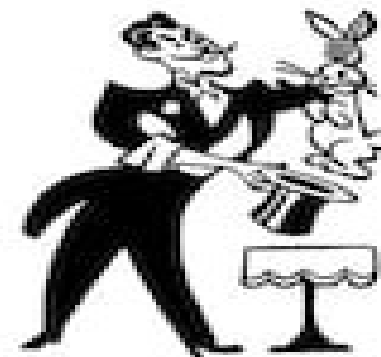
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EXAMPLES

What If the magician comes every other Tuesday and always walks around the facility afterwards to meet with residents in their rooms?

the magician will need a fingerprint records check.



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EXAMPLES

What about lawn service personnel or contracted pest control?

In most circumstances, these individuals should not require a check. If they are routinely working in the residents' rooms with no supervision, they may meet the definition and require a fingerprint records check.



EXAMPLES

What about youth volunteers?

A criminal background check is not required for anyone under the age of 17.



Recently Asked Questions

- How long is a satisfactory criminal records determination good for?

12 months or the period of employment if the employee continues working at the same facility

Employees who leave a facility and seek employment at a different facility are required to have a background check issued within the past 12 months unless the fingerprints have been retained under Rap Back



Grace Period

30-Day Grace Period while check is pending

While a criminal background check is pending, the facility may permit an individual to have direct access to residents for a period not to exceed 30 days, provided that the individual is under the direct supervision of a staff member who has a satisfactory determination or otherwise meets the requirements of these rules. At the end of 30 days, if no background check determination has been issued by the department and the individual is working at the facility, the facility shall ensure that the individual does not have direct access to residents.

Exceptions

- 1) Administrators, Directors and Onsite Managers (cannot resume duties while check is pending)
- 2) Employees of nursing homes (see note below)



Criminal Background Checks: HOW

Georgia Criminal History Check System (GCHEXS)



GCHEXS enables users to:

- Easily check various registries, including the Certified Nurse Aide, Sex Offender and federal OIG Exclusions List;
- Determine the status of an applicant's background check; and
- Print the criminal background check fitness determination letter directly from the GCHEXS system.

All new users of GCHEXS must first get a username and password from DCH/OIG to access the system.

Please Note: GCHEXS will not be activated until October 1, 2019 for new participants.

<https://www.dch.gchexs.ga.gov>



GEORGIA DEPARTMENT
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Criminal Background Checks: WHERE

The GBI fingerprint vendor is Gemalto.

Electronic submission of fingerprint images will involve the use of a Gemalto GAPS live scan machine. The live scan captures fingerprint images and demographic data and submits this information to the Georgia Crime Information Center (GCIC) and FBI for processing. Notifications of the search results are then forwarded from the GCIC/FBI to Gemalto Cogent. Gemalto Cogent electronically sends the search results to the DCH Office of the Inspector General (OIG) for review and issuance of a satisfactory or an unsatisfactory determination.

To access the Gemalto locations go to:

1. Go to the Gemalto website at <https://www.aps.gemalto.com/ga/index.htm>
2. To the Left of the screen, select “Helpful Links”
3. The first selection on the screen is “FIND A LOCATION”



Criminal Background Checks: WHEN

PHASE 1

- **Effective October 1, 2019, NEW** owners, directors, onsite managers, administrators and direct access employees must submit a records check application.



PHASE 2

- **EXISTING** owners, directors, onsite managers, administrators and direct access employees must submit a records check application on or before **January 1, 2021**.

RAP BACK

- **HB 91** which allows the Georgia Bureau of Investigation to retain fingerprints for purposes of the Georgia Long-term Care Background Check Program, is anticipated to take effect on **January 1, 2020**.



Criminal Background Checks: WHY

The purpose of the new requirement is to exclude individuals with a criminal record from working with vulnerable older or disabled adults.

The look back period is 10 years. Disqualifying crimes are as follows:

Chapter 4 of Title 16, Attempt	<ul style="list-style-type: none"> • Felony attempted murder, 16-4-1
Chapter 5 of Title 16 Murder and other crimes against the person	<ul style="list-style-type: none"> • All felony violations of any offense in Chapter 5 of Title 16 • Misdemeanor violations of cruelty to children, 16-5-70 • Misdemeanor violations of neglect to a disabled adult, elder person or resident, 16-5-101 • Misdemeanor violations of exploitation and intimidation of a disabled adult, elder person or resident, 16-5-102
Chapter 6 of Title 16 Sexual Offenses	<ul style="list-style-type: none"> • All felony violations of any offense in Chapter 6 of Title 16 • Misdemeanor violations of child molestation, 16-6-4 • Misdemeanor violations of enticing a child, 16-6-5 • Misdemeanor violations of supervisory sexual assault, 16-6-5.1
Chapter 7 of Title 16, Damage to Property	<ul style="list-style-type: none"> • Felony violations of smash and grab burglary, 16-7-2
Chapter 8 of Title 16, Theft and related crimes	<ul style="list-style-type: none"> • All felony violations of any offense in Chapter 8 of Title 16
Chapter 9 of Title 16, Forgery and related crimes	<ul style="list-style-type: none"> • All felony violations of any offense in Chapter 9 of Title 16
Chapter 13 of Title 16, Controlled substances	<ul style="list-style-type: none"> • All felony violations of any offense in Chapter 13 of Title 16
Chapter 5 of Title 30, Failure to report abuse	<ul style="list-style-type: none"> • Misdemeanor and felony violations of 30-5-8
Chapter 7 of Title 31, Unlicensed personal care home	<ul style="list-style-type: none"> • Felony violations of 31-7-12.1
Miscellaneous	<ul style="list-style-type: none"> • Equivalent offenses from other states



Enforcement Penalties

Civil Money Penalties for violations:

- \$500 for each day of noncompliance

Calculated from the time the facility knew or should have known that it employed an individual with a criminal record until the date such individual's employment is terminated.

- Maximum of \$10,000



For more information . . .

Check our website for implementation updates:

<https://dch.georgia.gov/>

Please reach out to us with any questions or concerns.

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GEORGIA DEPARTMENT
OF COMMUNITY HEALTH

TOP VIOLATIONS

EXPECTATION

Rule 111-8-62-.25 Supporting Residents' Rights

1 (a) Each resident must receive care, and services which must be adequate, appropriate, and in compliance with applicable federal and state law and regulations



FULFILLING THAT OBLIGATION

AREAS OF FOCUS:

1. Adequate screening/assessment of the resident
2. Screening/assessment of skill set/staff
3. Screening/assessment of environment
4. Provision of care and services



RESIDENT ASSESSMENT

Rule 111-8-62-.15 Admission

- a) Persons admitted to a personal care home must be at least 18 years of age.
- (b) The home is permitted to admit and retain only ambulatory residents who are capable of self-preservation with minimal assistance, i.e. staff may assist the resident in transferring from a sitting or reclining position and provide verbal directions to residents who are able to self-propel to the nearest exit.



Rule 111-8-62-.15 Admission

(d) The home must not admit, or retain persons who require the use of physical or chemical restraints, isolation, or confinement for behavioral control

(e) No home is permitted to admit residents who either require continuous medical services or continuous nursing care and treatment.

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Rule 111-8-62-.15 Admission

(f) Medical, nursing, health or therapeutic services required on a periodic basis, or for short-term illness, must not be provided as services of the home. When such services are required, they must be purchased by the resident or the resident's representative or legal surrogate, if any, from appropriately licensed providers managed independently from the home. The home may assist in arrangement for such services, but not provision of those services

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SCREENING/ASSESSMENT OF STAFF

SCREENING/ASSESSMENT OF STAFF

- **111-8-62-.10 Staffing.**

(1) The home must maintain a minimum on-site staff to resident ratio of one awake direct care staff person per 15 residents during waking hours and one awake direct care staff person per 25 residents during non-waking hours where the residents **have minimal care needs.**



SCREENING/ASSESSMENT OF STAFF

111-8-62-.10 Staffing

- However, the home must staff **above** these minimum on-site staff ratios to meet the specific residents' ongoing health, safety and care needs.



SCREENING/ASSESSMENT OF STAFF

111-8-62-.10 Staffing

(c) Residents must be supervised consistent with their needs.



SCREENING/ASSESSMENT OF ENVIRONMENT

Rule 111-8-62-.13 Physical Plant Health and Safety Standards

- 1) Each home must be in compliance with fire and safety rules promulgated by the Office of the Safety Fire Commissioner for the personal care homes it regulates.
- (2) Each home must be in compliance with applicable local ordinances that specifically address fire safety in homes of that size and function. Private quarters must be maintained in such a manner as to comply with fire safety codes and not threaten the health or safety of residents.



Rule 111-8-62-.13 Physical Plant Health and Safety Standards

(2) (c) Space heaters must not be used, except during an emergency situation after obtaining specific written approval of the fire safety authority having jurisdiction over the home.



QUESTION

Is it OK to use a space heater if it's not in the resident area
i.e. administrator's office?

Rule 111-8-62-.18 Requirements for Memory Care Services

(1) A home which serves residents with cognitive deficits which place the residents at risk of eloping must Utilize appropriate effective safety devices, which do not impede the residents' rights to mobility and activity choice or violate fire safety standards, to protect the residents who are at risk of eloping from the premises



Question

How effective are your safety devices?

Question

What are your procedures for testing?

-What is the expected response?

Question

What about the residents who sign themselves out?

PROVISION OF CARE AND SERVICES

EXPECTATION

Rule 111-8-62-.25 Supporting Residents' Rights

1 (a) Each resident must receive care, and services which must be adequate, appropriate, and in compliance with applicable federal and state law and regulations



Rule 111-8-62-.20 Medications

(1) **Self-Administration of Medications.** Residents who have the capacity to self-administer medications safely and independently without staff assistance or supervision must be allowed to store their own medications securely and self-administer medications if they so desire.



Question

Any safeguards needed with self administration of medications?

Who determines when the resident is no longer capable of self-administering?

ADDITIONAL ISSUES

Rule 111-8-62-.25 Supporting Residents' Rights

Dealing with family members

- Refills not obtained timely
- Missed Md appts
- Instructed not to send to hospital until family arrives
- Instructed to take away resident's phone



ADDITIONAL QUESTIONS

Rule 111-8-62-.25 Supporting Residents' Rights

What about feuding family members??

- Limiting/restricting visits of another sibling?
- Limiting/restricting phone calls from another sibling?



ADDITIONAL QUESTIONS



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