



Healthcare Facility Regulation Division

Updated Rule Variance for Fingerprint Criminal Background Checks Chapter 111-8-12

Applicable to: Adult Day Centers
Assisted Living Communities
Home Health Agencies
Hospices
Intermediate Care Homes
Nursing Homes
Personal Care Homes
Private Home Care Providers

Effective October 1, 2020, the Department is modifying the previous variance which became effective March 20, 2020 and extended the grace period for fingerprint criminal background checks. The updated rule variance applies to Chapter 111-8-12-.05(1)(e) and 111-8-12-.06(3)(a) and is issued under the authority of the March 20, 2020 Executive Order issued by Governor Kemp and subsequent applicable Executive Orders.

I. Implementation Delay of Rule 111-8-12-.05(1)(e)

The Department is delaying the effective date of Rule 111-8-12-.05(1)(e) from January 1, 2021 to January 1, 2022. Existing owners, administrators, onsite managers, directors and direct access employees (who were in place prior to October 1, 2019) must submit a fingerprint records check application on or before January 1, 2022.

II. Modification of Grace Period for Rule 111-8-12-.06(3)(a)

The Department is modifying the grace period for fingerprint criminal background checks, as follows:

A. The extended grace period shall no longer apply to new owners, administrators or permanent direct access employees unless nearby fingerprint sites remain closed due to the COVID-19 public health emergency.

- i. Except for temporary employees referenced below, all individuals with a pending fingerprint criminal background check should proceed to obtain fingerprinting as soon as practicable so that the Department may issue a final determination. All new owners



are required to obtain a fingerprint criminal background check consistent with the requirements of Chapter 111-8-12. All new administrators and direct access employees who are appointed or hired for permanent positions are required to obtain a fingerprint criminal background check consistent with the requirements of Chapter 111-8-12.

- ii. If any facility is unable to meet the requirements of II.A.i above due to the continued closure of a fingerprint site and the lack of access to an alternative site within a reasonable distance, the facility should document the circumstances of the hardship and the Department will review the documentation during the survey process so that the facility is not cited for noncompliance that occurred due to situations beyond its control and related to the public health emergency. While 50 miles is a general guideline for the hardship determination, there is no specific requirement in the variance and the Department may consider the totality of the circumstances in reviewing cases in which there are open fingerprint sites located within a distance that is less than 50 miles.

B. The extended grace period shall remain applicable to temporary direct access employees, including temporary administrators, directors or onsite managers.

- i. All individuals hired by a facility for temporary employment who are subject to fingerprint criminal background check requirements may work immediately, under general supervision, once the facility has (1) entered the individual in the Georgia Criminal Background Check System (GCHEXS); and (2) completed all of the screening requirements (such as registry checks, normal employment processes, etc.) *except for the fingerprinting itself*. The fingerprinting and final determination (satisfactory or unsatisfactory) may be delayed until the State of Emergency is lifted.
- ii. The Department will consider temporary employment to include those employment arrangements initially expected to last for one year or less, but may consider the totality of the circumstances in situations where the period of employment is longer based on the length of the public health emergency.
- iii. General, rather than direct, supervision of the individual with the pending fingerprint check will be acceptable during the entire grace period.
- iv. Unless other federal waivers are issued, nursing homes must continue to comply with federal regulations that require a name-based background check prior to beginning work in the facility.

More information on this change will be posted on the Department's website:

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