



Brian P. Kemp, Governor

Frank W. Berry, Commissioner

2 Peachtree Street, NW | Atlanta, GA 30303-3159 | 404-656-4507 | www.dch.georgia.gov

PUBLIC NOTICE OF PROPOSED RULES

Pursuant to the Georgia Administrative Procedures Act, Official Code of Georgia (O.C.G.A.) § 50-13-1, et seq., the Georgia Department of Community Health is required to provide public notice of its intent to adopt, amend, or repeal certain rules other than interpretative rules or general statements of policy. Accordingly, the Department hereby provides notice of its intent to adopt **Rules and Regulations for Hospital Transparency, Ga. Comp. Rules & Regs., R. 111-8-41**. These rules are being proposed pursuant to the authority granted to the Department in O.C.G.A. §§ 31-7-22. An exact copy of the proposed rules and a synopsis of the rules are attached to this public notice.

NOTICE OF PUBLIC HEARING

An opportunity for public comment will be held on November 12, 2019 at 9:00 a.m. at the Department of Community Health (2 Peachtree St., N.W., Atlanta, GA 30303) in the 5th Floor Board Room. Oral comments may be limited to ten (10) minutes per person. Individuals who are disabled and require assistance to participate during this meeting should contact the Office of General Counsel at (404) 656-7993 at least three (3) business days prior to the meeting.

Individuals wishing to comment in writing on the proposed rules should do so on or before November 15, 2019. Comments may be faxed to (404) 463-5025, emailed to vharrell@dch.ga.gov, or mailed to the following address:

Attention: Office of General Counsel
Georgia Department of Community Health
2 Peachtree Street, NW, 40th Floor
Atlanta, GA 30303

Comments from written and public testimony will be provided to the Board of Community Health prior to December 12, 2019. The Board will vote on the proposed changes on December 12, 2019.

NOTICE IS HEREBY GIVEN THIS 10TH DAY OF OCTOBER, 2019.

Frank W. Berry

**RULES OF
GEORGIA DEPARTMENT OF COMMUNITY HEALTH
HEALTHCARE FACILITY AND REGULATION**

**PROPOSED CHAPTER 111-8-41
RULES AND REGULATIONS FOR HOSPITAL TRANSPARENCY**

SYNOPSIS OF PROPOSED RULE PROMULGATION

STATEMENT OF PURPOSE: The Georgia Department of Community Health proposes to adopt Rules and Regulations for Hospital Transparency, Chapter 111-8-41. These rules are being proposed pursuant to the authority granted the Department of Community Health in O.C.G.A. § 31-7-22.

MAIN FEATURE OF THE PROPOSED RULE: Adoption of new rules to comply with the provisions of House Bill 321 from the 2019 Session of the General Assembly which requires public access to certain hospital documentation.

RULES
OF
DEPARTMENT OF COMMUNITY HEALTH
HEALTHCARE FACILITY REGULATION

CHAPTER 111-8-41
RULES AND REGULATIONS FOR HOSPITAL TRANSPARENCY

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111-8-41-.01 Legal Authority.

These rules are adopted and published pursuant to the Official Code of Georgia Annotated (O.C.G.A.) § 31-7-22 et seq. (effective Oct. 1, 2019).

Authority: O.C.G.A. § 31-7-22

111-8-41-.02 Applicability.

These rules shall apply to all Hospitals, any Affiliate, and any Subsidiary as defined in these Rules. This information is provided with the intent to give healthcare consumers the tools to make an informed decision in selecting a hospital.

Authority: O.C.G.A. § 31-7-22

111-8-41-.03 Definitions.

As used in these Rules, the term

- (1) "Administrative Position" shall mean a non-clinical hospital employee or contractor, which shall include, but is not limited to, a management company or similar entity, with a gross annual salary or payment of \$100,000 or more.
- (2) "Affiliate" shall mean any hospital that is united; being in close connection, allied, associated, or attached as a member or branch to another hospital.
- (3) "Captive Insurance Company" shall include any agency captive insurance company, association captive insurance company, captive insurance company, dormant captive insurance company, industrial insured captive insurance company, or pure captive insurance company as defined in O.C.G.A. 33-41-2.
- (4) "Hospital" shall mean a nonprofit hospital, a hospital owned or operated by a hospital authority, or a nonprofit corporation formed, created, or operated by or on behalf of a hospital authority.
- (5) "Joint Venture" shall mean an enterprise shared between two or more entities. A joint venture is a business entity created by two or more business entities, which enter into an agreement to share funding, profits or losses, and control over the new entity.
- (6) "Link" shall mean publicly-accessible single-click access from a prominent place on the webpage of either the Hospital or the department to the web location where the subject documents are posted.
- (7) "Parent Corporation" shall mean a business entity that forms another business entity and retains ownership in the new entity. A parent corporation is a corporation that creates or acquires another business entity, retaining ownership or control in the new entity, which is the Subsidiary corporation.

- (8) "Real Estate" shall mean the physical parcel of land, improvements to the land, improvements attached to the land, real fixtures, and appurtenances such as easements.
- (9) "Real Property Holdings" shall mean the bundle of rights, interests, and benefits connected with the ownership of real estate. Real property does not include the intangible benefits associated with the ownership of real estate, such as the goodwill of a going business concern.
- (10) "State Funds" shall mean state dollars, but shall not include funding necessary for the continued state participation in the federal Medicaid program.
- (11) "Subsidiary" shall mean a company or companies organized by a parent corporation.
- (12) "Subsidiary Holding Company" shall mean a company or companies organized by a parent corporation or a Subsidiary corporation to the parent corporation.

Authority: O.C.G.A. § 31-7-22

111-8-41-.04 Required Documentation.

Beginning October 1, 2019, each Hospital in this state shall make public the most recent version of the following subject documents:

(1) Federal related disclosures:

(A) Copies of audited financial statements that are general purpose financial statements, which express the unqualified opinion of an independent certified public accounting firm for the most recently completed fiscal year for the Hospital; each of its Affiliates, except those Affiliates that were inactive or that had an immaterial amount of total assets; and the Hospital's parent corporation that include the following:

(i) A PDF version of all audited financial statements;

(ii) A note in the Hospital's audited financial statements that identifies individual amounts for such Hospital's gross patient revenue, allowances, charity care, and net patient revenue;

(iii) Audited consolidated financial statements for Hospitals with subsidiaries and consolidating financial statements that at a minimum contain a balance sheet and statement of operations and that provide a breakout of the Hospital's and each Subsidiary's numbers with a report from independent accountants on other financial information; and

(iv) Audited consolidated financial statements for the Hospital's parent corporation and consolidating financial statements that at a minimum

contain a balance sheet and statement of operations and that provide a breakout of the Hospital's and each Affiliate's numbers with a report from independent accountants on other financial information; and

(B) Copy of audited Internal Revenue Service Form 990, including Schedule H for hospitals and other applicable attachments; provided, however, that for any Hospital not required to file IRS Form 990, the department shall establish and provide a form that collects the same information as is contained in Internal Revenue Service Form 990, including Schedule H for hospitals, as applicable; and

(2) Georgia supplemental disclosures:

(A) Copy of the Hospital's completed annual hospital questionnaire, as required by the department;

(B) The community benefit report prepared pursuant to O.G.C.A. § 31-7-90.1, if applicable;

(C) The disproportionate share hospital survey, if applicable;

(D) Listing of all Real Property Holdings of the Hospital, including the location and size, parcel ID number, purchase price, current use, and any improvements made to such property;

(E) Listing of any ownership or interest the nonprofit Hospital has in any Joint Venture, partnership, Subsidiary Holding Company, or Captive Insurance Company; where any such entity is domiciled; and the value of any such ownership or interest;

(F) Listing of any bonded indebtedness, outstanding loans, and bond defaults, whether or not in forbearance; and any bond disclosure sites of the Hospital;

(G) A report that identifies by purpose, the ending fund balances of the net assets of the Hospital and each Affiliate as of the close of the most recently completed fiscal year, distinguishing between donor permanently restricted, donor temporarily restricted, board restricted and unrestricted fund balances. The Hospital's interest in its foundation shall be deducted from the foundation's total fund balance;

(H) Copy of all going concern statements regarding the Hospital;

(I) The most recent legal chart of corporate structure, including the Hospital, each of its Affiliates and Subsidiaries, and its Parent Corporation, duly dated;

(J) Report listing the salaries and fringe benefits for the ten highest paid Administrative Positions in the Hospital. Each position shall be identified by its complete, unabbreviated title. Fringe benefits shall include all forms of compensation, whether actual or deferred, made to or on behalf of the employee, whether full or part-time;

(K) Evidence of accreditation by accrediting bodies, including, but not limited to, the Joint Commission and DNV; and

(L) Copy of the Hospital's policies regarding the provision of charity care and reduced cost services to the indigent, excluding medical assistance recipients, and its debt collection practices.

Authority: O.C.G.A. § 31-7-22

111-8-41-.05 Posting Requirements.

- (1) Each Hospital shall post a Link entitled "Hospital Transparency Information" in a prominent location on the main page of its website to the documents listed in Rule 111-8-41-.04 on July 1 of each year or more frequently at its discretion. Documents from prior years shall remain posted and accessible on the Hospital's website indefinitely.
- (2) All documents listed in Rule 111-8-41-.03 shall be prepared in accordance with generally accepted accounting principles, as applicable.
- (3) Each Hospital shall provide the Link to the department annually and in the manner requested.
- (4) The department shall post the Link in a prominent location on its website for each Hospital in this state.

Authority: O.C.G.A. § 31-7-22

111-8-41-.06 Enforcement.

- (1) Any Hospital that fails to post the documents required by these Rules within 30 days of the dates required in this Rule section shall be suspended from receiving any State Funds or any donations pursuant to O.C.G.A. § 48-7-29.20; provided, however, that the department shall provide a hospital notice of any deficiency and opportunity to correct such deficiency prior to any suspension of funds pursuant to this subsection.
- (2) Any hearing under these Rules shall be held in accordance with the Georgia Administrative Procedure Act.
- (3) Any person who knowingly and willfully includes false, fictitious, or fraudulent information in any documents required to be posted pursuant to O.C.G.A. § 31-7-22 and these Rules shall be subject

to a violation of O.C.G.A. § 16-10-20 and be referred by the department to the Office of the Attorney General for investigation.

Authority: O.C.G.A. § 31-7-22