

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

**CHAPTER 111-8-13
RULES AND REGULATIONS FOR THE GEORGIA CAREGIVER REGISTRY**

SYNOPSIS OF REVISED RULES

STATEMENT OF PURPOSE: The Georgia Department of Community Health proposes to adopt Rules and Regulations for the Georgia Caregiver Registry, Chapter 111-8-13. These rules are being proposed pursuant to the authority granted the Department of Community Health in O.C.G.A. §§ 31-2-5, 31-2-7 and 31-7-380 et seq.

MAIN FEATURE OF THE PROPOSED RULE: Adoption of new rules to comply with the provisions of Senate Bill 406 from the 2018 Georgia Legislative Session of the General Assembly which allows DCH to create and maintain a Caregiver Registry. The purpose of the Georgia Caregiver Registry is to allow private family employers who are relatives or guardians of elderly persons to obtain an employment eligibility determination from DCH for current and prospective employees. These employees will solely provide personal care services to the employer's family members or wards in Georgia. The use of the Caregiver Registry is voluntary.

This rule will provide family employers with access to employment eligibility determinations in a manner similar to determinations made for employees working for licensed facilities, such as nursing homes, assisted living communities, and home health agencies.

The Caregiver Registry will not be used by licensed facilities, other entities, or any individuals to determine a person's employment status or for any other purpose. This law became effective October 1, 2019.

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DEPARTMENT OF COMMUNITY HEALTH,
CHAPTER 111-8
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111-8-13-.01 Legal Authority

These rules are adopted and published pursuant to the Official Code of Georgia Annotated §§ 31-7-380 et seq.

Authority: O.C.G.A. §§ 31-7-380 et seq.

111-8-13-.02 Title and Purpose

These rules, known as the Rules and Regulations for the Georgia Caregiver Registry, establish the minimum standards for the Georgia Caregiver Registry which allows employers who are family members or guardians of elderly persons to conduct an employment eligibility determination for an applicant or employee who will provide personal care services for the employer's family members or wards.

Authority: O.C.G.A. § 31-7-380.

111-8-13-.03 Definitions.

In these rules, unless the context otherwise requires, the terms set forth herein shall mean the following:

(a) “Applicant” means an individual applying to provide personal care services to an elderly person in a residence or location not licensed by the Department.

(b) “Caregiver Registry” means the database established by the Department to provide private family employers with access to employee or applicant eligibility determinations.

(c) “Criminal Background Check” means a search of the criminal records maintained by the Georgia Crime Information Center (GCIC) and the Federal Bureau of Investigation to determine whether an applicant or employee has a criminal record.

(d) “Department” means the Department of Community Health.

(e) “Elderly Person” means an individual who is 65 years of age or older.

(f) “Employee” means any individual who is providing personal care services to an elderly person in a residence or location not licensed by the Department.

(g) “Employer” means an individual who is considering an applicant or has hired an employee for a family member or ward.

(h) “Family Member” means an individual with a close familial relationship, including, but not limited to, a spouse, parent, sibling, or grandparent.

(i) “Personal care services” means home care, health care, companionship, or transportation and includes, but is not limited to,

providing assistance with bathing, eating, dressing, walking, shopping, fixing meals, and housework.

(j) “Records Check Application” means fingerprints in such form and of such quality as prescribed by GCIC under standards adopted by the FBI and a records search fee, payable in such form as the Department may direct to cover the cost of obtaining a criminal background check.

(k) “Registry Check” means a review of the nurse aide registry provided in O.C.G.A § 31-2-14, the state sexual offender registry, and the List of Excluded Individuals and Entities as authorized in Sections 1128 and 1156 of the federal Social Security Act, as it existed on February 1, 2018, or other registry useful for the administration of these rules as specified by the Department.

(l) “Ward” means an elderly person for whom a guardian has been appointed pursuant to O.C.G.A. § 29-1-1 et seq.

Authority: O.C.G.A §§ 31-7-381 and 31-7-386.

111-8-13-.04 Use of the Georgia Caregiver Registry

(1) The Georgia Caregiver Registry will enable employers who are family members or guardians of elderly persons in Georgia to obtain an employment eligibility determination for applicants or employees who are providing personal care services to the employer’s family members or wards.

(2) The Caregiver Registry shall be used solely for those applicants or employees that offer personal care related services to an elderly person that is an employer’s family member or ward in the State of Georgia. Personal care services performed pursuant to these rules shall not be performed at facilities licensed by the Department.

(3) The use of the Georgia Caregiver Registry is voluntary and not required by state or federal law.

(4) The Georgia Caregiver Registry shall not be used by facilities licensed by the Department, or other entities, or individuals who are not employers, as defined in this rule, to determine a person's employment status or for any other purpose.

(5) DCH will allow employers to use the Georgia Caregiver Registry to inquire about the eligibility status of an applicant or current employee as if they were applying to work or working in one of the facilities licensed under O.C.G.A. § 31-7-351(8) if the following requirements are met:

(a) the applicant or employee agrees to such request,

(b) the applicant or employee provides his or her fingerprints as set forth in O.C.G.A. Article 14, Chapter 7, Title 31; and

(c) the applicant or employee provides written consent to the inclusion of the results in the Georgia Caregiver Registry.

(6) If the requirements in Section 111-8-13-.04(5)(a)-(c) are satisfied, DCH shall issue a written eligibility determination to the applicant or employee. The employer shall be responsible for all employment decisions made based on the eligible or ineligible employment determination. Any fees associated with such check shall be paid by the employer, applicant, or employee.

(7) Should the applicant or employee refuse to include the results of their criminal background check into the Georgia Caregiver Registry then the Department shall not issue a determination as defined in O.C.G.A. §§ 31-7-351(15) and (16).

Authority: O.C.G.A. §§ 31-7-380, 31-7-382 and 31-7-383.

111-8-13-.05 Appeals of Ineligibility Determinations

(1) If an applicant or employee receives an ineligible determination notice by the Department and wishes to appeal the ineligible determination, the applicant or employee must appeal by requesting an appeal in writing within ten (10) days of receipt of the notice. The applicant or employee must submit their request in writing to the Department at 2 Peachtree St., N.W., 5th Floor, Atlanta, Georgia 30303.

(2) An applicant or employee who receives an ineligible determination or whose name appears on a registry check conducted pursuant to these rules shall be eligible to appeal such determination pursuant to Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." In a hearing held pursuant to this paragraph, the hearing officer shall consider in mitigation the length of time since the crime was committed, the absence of additional criminal charges, the circumstances surrounding the commission of the crime, and other indicia of rehabilitation.

Authority: O.C.G.A. §§ 31-7-360 and 31-7-384.

111-8-13-.06 Severability

In the event that any rule, sentence, clause, or phrase of any of these rules and regulations may be construed by any court of competent jurisdiction to be invalid, illegal, unconstitutional, or otherwise unenforceable, such determination or adjudication shall in no manner affect the remaining rules or portions thereof. The remaining rules or portions of rules shall remain in full force and effect, as if such rule or portions thereof so determined, declared, or adjudged invalid or unconstitutional were not originally a part of these rules.

Authority: O.C.G.A. §§ 31-2-5, 31-2-7 and 31-7-386.