

Long-Term Care Background Checks FAQs

General Information

1. What is a fingerprint-based criminal history records check?

A fingerprint-based criminal history records check is a search for criminal history record information based on an individual's biometric data. The search is conducted when an individual's fingerprints are submitted to the Georgia Bureau of Investigation (GBI) and the Federal Bureau of Investigation (FBI) in response to a request by the Georgia Department of Community Health (DCH).

2. Who must be fingerprinted?

Owners, administrators, directors, managers, direct access employees, and volunteers of adult day centers, assisted living communities, home health agencies, hospice, intermediate care facilities, nursing homes, personal care homes, and private home care.

3. What does direct access mean?

Direct access means having, or expecting to have, duties that involve **routine personal contact** with a patient, resident, or client. This includes face-to-face contact, hands-on physical assistance, verbal cuing, reminding, standing by or monitoring 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** (e.g., patient's, resident's, or client's checkbook, debit and credit cards, resident trust funds, banking records, stock accounts, or brokerage accounts). This term does include administrators, on-site managers and directors.

4. Who is considered an owner?

For nursing homes or intermediate care homes, an owner means a person or entity that performs, has the duty to perform, or controls the performance of any of the following functions:

- A.** Providing management, operation, or administrative services for such home;
- B.** Hiring or firing of the administrator, director of nursing, or other staff working at such home;
- C.** Setting or controlling the budget of such home;
- D.** Staffing or determining the level of staff at such home;
- E.** Providing direct care, treatment, or services to the residents of such home;
- F.** Making decisions regarding the care, treatment, or services provided to residents at such home;
- G.** Adopting, implementing, or enforcing the policies and procedures for such home.

For all other facilities, an owner means an 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:

- A.** Purports to or exercises authority of a facility;

- B. Applies to operate or operates a facility;
- C. Maintains an office on the premises of a facility;
- D. Resides at a facility;
- E. Has direct access at a facility;
- F. Provides direct personal supervision of facility personnel by being immediately available to provide assistance and direction when such facility services are being provided;
- G. Enters into a contract to acquire ownership of a facility.

5. Who is considered an employee?

Any individual who has direct access and who is hired by the facility **through employment**, or **through a contract** with such facility, including, but not limited to, housekeepers, meal delivery staff, maintenance personnel, and dietitians. Such term 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. Such term shall not include 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.*

**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.*

6. Is there a list of health care professional job titles that are exempt from the background check requirements?

Yes. Click on the following link [Professional Exemptions.pdf](#) to view those direct access employees who are licensed health care professionals. These individuals are exempt from the background check process; however, the facility must verify that their license is in good standing. Otherwise, they would be required to undergo the fingerprint background screening. There may be other types of licensed health care providers that qualify for this exemption.

The list also includes those direct access employees that are subject to the fingerprint background check requirements. These include barbers, cosmetologists, nursing home administrators, and certified nurse assistants.

7. Is there a grace period while my background check is pending?

Yes. 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 from the completed background check process. 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.

There are two exceptions to the grace period:

- I. Administrators, directors and on-site managers **cannot** work while their background check is pending.
- II. Federal regulations allow employees of nursing homes and intermediate care homes to work directly with residents while the background check is being performed. In order for facilities to utilize the 30-day grace period, the facility first must obtain a Georgia-only criminal background check to verify that the individual has not been found guilty of abuse, neglect, exploitation, misappropriation of property, or mistreatment by a court of law. This background check can be performed by your local police department or sheriff's office.

8. I work at a long-term care facility's corporate office and I have access to resident's financial information. Am I required to have a background check?

Yes. Direct access means having access to a patient's, resident's, or client's **financial information** such as their checkbook, debit and credit cards, resident trust funds, banking records, stock accounts, or brokerage accounts.

9. If a nurse is exempt from a background check, can a facility still require them to undergo a separate fingerprint background check under the new legislation?

No. Senate Bill 406 is very clear that nurses are exempt from having a background check. The FBI only allows DCH to conduct fingerprint-based background checks on individuals specifically included in the legislation.

10. Who is considered a volunteer?

A volunteer is an individual who performs duties on a sporadic basis that are equivalent to the duties of an employee providing such services.

11. Are volunteers that come to the facility to participate in group setting activities subject to a background check?

Generally, no but there are exceptions. "Direct access" requires routine personal contact. In most instances, this involves a private setting that is one-on-one with no supervision. For example, if a nursing home hires a magician to do a performance in a common area for a special event, that would not meet the definition of "direct access" requiring a background check. However, if the magician comes every other Tuesday and always walks around the facility afterwards to meet with residents in their rooms, then the magician will need a fingerprint background check.

12. Who is responsible for classifying individuals as "direct access"?

The facility must make that determination, and Healthcare Facility Regulation (HFR) will accept the classification unless there is strong evidence to suggest that the facility has done so improperly.

13. How long is a satisfactory criminal records determination good for?

A satisfactory criminal records check is good for 12 months or the period of employment if the employee continues working at the same facility. Individuals that remain employed at the facility do not require any subsequent fingerprint background checks as long as they remain employed at the same facility. Individuals that leave a facility and seek employment at a different facility are required to have a background check

determination that was issued within the past 12 months unless the fingerprints have been retained under Rap Back. If the fingerprints are retained under Rap Back, then there is no need to obtain an additional fingerprint check regardless of a change in employment.

Important Notice to Employers: *While employees that obtain a fingerprint check are not required to have a re-check in 12 months as long as they remain employed by the same facility, the facility should be aware that those employees fingerprinted prior to August 30, 2021, will not be enrolled in Rapback and the employer will not receive any notification if the individual receives a subsequent disqualifying offense which deems them **ineligible** for employment. Thus, employers may wish to enter a new fingerprint application in GCHEXS.*

Important Note to Employees: *If your retained fingerprints are removed from the GBI and FBI's Rap Back systems, then you would be required to undergo another fingerprint background check in order to work at a facility.*

14. I was convicted of a disqualifying crime many years ago. Is this going to prevent me from being hired?

It depends on the disposition of the case. SB 406 granted an exemption for what is considered a criminal record. The term "criminal record" shall not include the record of an owner, applicant, or employee for which at least 10 years have elapsed from the date of his or her criminal background check since the completion of all the terms of his or her sentence; provided, however, that such 10-year period or exemption shall never apply to any crime identified below:

- 1) Trafficking of persons for labor or sexual servitude as prohibited by Code Section 16-5-46;
- 2) Neglecting disabled adults, elder persons, or residents as prohibited by Code Section 16-5-101; or,
- 3) Exploitation and intimidation of disabled adults, elder persons, and residents as prohibited by Code Section 16-5-102.

GCHEXS/Fingerprints

1. How do I use the Georgia Criminal History Check System (GCHEXS) to conduct background checks?

The owner or administrator for a new facility must first request access to GCHEXS by completing the GCHEXS Facility Account Registration form found [here](#).

2. How do I access GCHEXS?

A username, temporary password and link to the GCHEXS website will be sent to you once your registration has been approved.

NOTE: GCHEXS will support only the most up-to-date version of the following internet browsers: Mozilla, Firefox, Internet Explorer, Google Chrome, and Safari.

Using an older or unsupported internet browser may cause web pages within the GCHEXS system to not function as intended. Please ensure you are using the most up-to-date version of your internet browser.

3. Are there instructions on how to navigate through GCHEXS?

Yes. Once you have logged into GCHEXS, click on the "Help" icon in the upper right corner of the screen. It contains very useful information on how to navigate through the system.

4. Who can I contact should I have questions regarding GCHEXS?

Users should send an email to gchexs.user@dch.ga.gov. You may also contact the Background Investigations Unit at (833) 463-0020.

5. How do I submit fingerprints?

An application for a background check must be completed in GCHEXS *prior to fingerprinting*. Once the GCHEXS application and applicant disclosure survey are completed, the applicant will receive an email from the Georgia Applicant Processing Service (GAPS) with the information needed to schedule the fingerprint appointment. During scheduling, the applicant may select the date, time and location for the fingerprint appointment. Information for rescheduling the fingerprint appointment can also be found on the GAPS website.

6. What is the cost of fingerprinting and who is responsible for paying?

The cost of fingerprinting can be found on the Applicant Instruction Form, which can be generated in GCHEXS. The facility shall determine the party responsible for payment – applicant or employer. DCH is not responsible for any costs associated with fingerprinting, including refunds.

7. How long does it take to get state and federal results back?

On average, it takes 24-48 hours to receive a response from the GBI and FBI. Once GCHEXS receives the results, the Background Investigation Unit will issue an eligibility determination within 10 to 15 business days.

8. I live out-of-state. How do I get fingerprinted?

If you cannot travel to Georgia for fingerprinting at one of the designated fingerprint site locations, you can submit hard copy fingerprint cards directly to the GAPS. You must still complete the GCHEXS application process; however, you can access instructions on how to submit fingerprint cards during the scheduling process.

9. As an owner coming from another facility or opening a second location, do I have to do my fingerprints over?

The owner will need to enter a new application in GCHEXS for the second facility. GCHEXS will identify, after the application submission, if a new fingerprint-based background check is needed. If your fingerprint results are less than 12 months old or you are enrolled in the Rap Back Program, you would not be required to submit fingerprints. If it has been more than a year since you received a satisfactory fingerprint check determination and you are not enrolled in Rap Back, you will need to submit a new set of fingerprints.

Disqualifying Crimes

1. What are the crimes that would prevent an owner from obtaining a license, an applicant's employment eligibility, or a current employee from being retained?

You may view the disqualifying crimes by clicking [Disqualifying Crimes.pdf](#).

2. If I get an unsatisfactory determination, what do I do?

If an individual receives an unsatisfactory determination, they will receive a letter from DCH, Office of Inspector General (OIG), Background Investigation Unit (BIU) which lists the disqualifying crime(s) which were the basis for the unsatisfactory criminal records check. If you receive an unsatisfactory determination, you may appeal the finding within 10 calendar days of the unsatisfactory determination. The information related to appeals will be sent to you at the time you are eligible for appeal.

If the individual believes the state and/or federal criminal history information is inaccurate, they should contact the GBI or FBI directly and request a review of their record depending on whether it is a state or federal issue. DCH is not involved in this review process.

For Georgia criminal history information, visit the [GCIC website](#).

To request a copy of your national criminal history record/Identity History Summary, visit the [Federal Bureau of Investigation website](#).

3. I am an owner of a facility and wish to appeal the unsatisfactory determination. Can I continue to operate while waiting for the hearing?

No. DCH has no authority under the law to allow you to continue to operate while you are waiting for your hearing.

4. How long does it take to get a hearing and a decision?

The time varies considerably. Once you have submitted the Request for an Administrative Appeal and uploaded the certified arrest/court documentation or a signed and notarized statement from the applicant/petitioner describing the facts and circumstances around the arrest, the DCH Office of Inspector General (OIG) will submit the appeal to the Office of State Administrative Hearings (OSAH). You will receive an email notification when your hearing request has been sent to OSAH.

5. Who schedules the hearing and how do I know when it has been scheduled?

The hearing will be scheduled by OSAH once they receive all the required records from the DCH OIG. After you receive notification indicating that the hearing request has been processed, OSAH will schedule the hearing and send you notice of the hearing date in writing. Questions concerning the scheduling of the hearing may be directed to OSAH at 404-657-2800.