



GEORGIA DEPARTMENT  
OF COMMUNITY HEALTH

# Healthcare Facility Regulation



October 21, 2016

Presented by  
Melanie Simon  
Division Chief

# Our Mission

HFR is committed to protecting Georgia's health care consumers and ensuring the quality of health care facilities and services through the enforcement of state statutes and regulations and federal certification requirements.



# Core Principles

- Protection
- Quality
- Regulatory Compliance

# Facilities Regulated by HFRD

Facilities regulated by HFRD include:

Narcotic Treatment Programs	67
Home Health Agencies	106
Assisted Living Communities	127
Hospitals	192
Hospices	217
Dialysis Clinics	342
Nursing Homes	368
Ambulatory Surgical Centers	379
Drug Abuse Centers	409
Private Home Care Providers	1251
Personal Care Homes	1612
Laboratories	2465



# Regulatory Authority

## **STATE LICENSING**

O.C.G.A. § 31-2-7

Rules and Regulations of the  
Georgia Department of Community Health

## **FEDERAL SURVEY AND CERTIFICATION**

42 C.F.R. § 488.11

CMS State Operations Manual



# Survey Process



- Almost all surveys are unannounced
- For deemed facilities, DCH does not conduct routine surveys
- Surveyors review both state and federal requirements
- For federal deficiencies, enforcement action is taken by CMS

# Survey Volume

<b>Survey Activity</b>	<b>2015 Volume</b>
Initial Licensure	667
Routine Survey	3,439
Complaint Investigations	2,370
Review of Incident Reports	8,955

# Top 10 Complaints - Hospitals

Category	Allegation
EMTALA	Range of issues
Patient Abuse	Employee to Resident
Patient Rights	Not Treated with Dignity/Respect
Quality of Care	Lack of Watchful Oversight
Physical Environment	Facility not clean
Patient Neglect	Failure to Assess/Monitor
Patient Neglect	Pressure Sores
Quality of Care	Not performed per Physician Orders
False Billing	Patient incorrectly billed
Patient Abuse	Sexual abuse



# EMTALA in a Nutshell

## *Requirements for hospitals with dedicated emergency departments:*

- Policies and Procedures to comply with 42 C.F.R. § 489.24
- Signage in the dedicated Emergency Department
- Maintenance of medical records for 5 years from date of transfer
- List of on-call physicians
- Central ED log
- Appropriate medical screening
- Stabilizing treatment
- Appropriate transfer of an unstabilized individual
  - ❖ If requested by patient
  - ❖ Physician or qualified medical person signs certification that benefits outweigh risks
    - Provide treatment to minimize risks of transfer
    - Send pertinent records to the receiving hospital
    - Obtain consent of the accepting hospital
    - Ensure transfer is done properly (through qualified personnel and transportation equipment, including the use of medically appropriate life support measures)



# EMTALA in a Nutshell

## Additional requirements:

- **Medical screening and/or stabilizing treatment may not be delayed in order to inquire about payment status**
- **Facilities must accept appropriate transfers**
- **Facilities cannot penalize physicians for refusal to transfer or employees who report EMTALA violations**
- **Facilities report to CMS or State Survey Agency within 72 hours when hospital suspects it may have received an improperly transferred individual**



# Reporting Requirements

## *Hospitals*

- **Unanticipated patient death**
- **Rape occurring in the facility**
- **Surgery on the wrong patient or wrong body part**
- **Patient injury unrelated to the patient's illness or underlying condition which results in a permanent loss of limb or function**
- **Second or third degree burns involving 20% or more of the body surface of an adult or 15% or more of the body surface of a child which were acquired by the patient in the hospital**
- **Serious injury to a patient resulting from the malfunction or intentional or accidental use of patient care equipment**
- **Discharge of an infant to the wrong family**
- **Patient missing for more than 8 hours**
- **Any assault on a patient which results in an injury requiring treatment**



# Reporting Requirements

## *Dialysis Clinics*

- **Unanticipated patient death or patient death as a direct result of treatment**
- **Serious injury resulting from the malfunction or misuse of equipment**
- **Exsanguination while at the facility**
- **Any patient dialyzed with another patient's dialyzer**
- **Any deviation in fulfilling the patient prescription which results in a significant adverse patient outcome**
- **Any sexual or physical assault of or by a patient alleged to have occurred in the facility**



# Reporting Requirements

## *Clinical Laboratories*

- **Fatal transfusion reactions or transfusion complications affecting the patient**
- **Laboratory testing errors which have resulted in death or serious injury to a patient or employee**
- **Significant interruptions in service (electricity, gas, water)**

## *Hospice*

- **Unanticipated patient death**
- **Patient rape occurring in the facility or in the home at the time a hospice worker is present**
- **Any assault on a patient by a hospice worker or any abuse or neglect by a hospice worker**
- **Any serious injury to a patient resulting from the malfunction or misuse of equipment**
- **A patient missing for more than 8 hours**



# Reporting Requirements

***Self-reports of incidents are due within 24 hours or by the next regular business day.***

***The report is received in confidence and must include:***

- **Name of the facility**
- **Date of the incident and the date the facility became aware**
- **Medical record number of any affected patients**
- **Type of incident suspected and a brief description**
- **Any immediate corrective action taken**

***Peer review committee should complete an investigation within 45 days and the report should be available at the time of survey.***



# Reporting Requirements

## Disaster Preparedness Issues:

The hospital shall report to the Department whenever any of the following events involving hospital operations occurs *or when the hospital becomes aware it is likely to occur*, to the extent that the event is expected to cause or causes a significant disruption of patient care:

- (i) A labor strike, walk-out, or sick-out;
- (ii) An external disaster or other community emergency situation; and
- (iii) An interruption of services vital to the continued safe operation of the facility, such as telephone, electricity, gas, or water services.

The hospital shall make a report of the event within twenty-four (24) hours or by the next regular business day from when the reportable event occurred or from when the hospital has reasonable cause to anticipate that the event is likely to occur.

The report shall include: (i) The name of the hospital; (ii) The date of the event, or the anticipated date of the event, and the anticipated duration, if known; (iii) The anticipated effect on patient care services, including any need for relocation of patients; and (iv) Any immediate plans the hospital had made regarding patient management during the event.

Within forty-five (45) days following the discovery of the event, the hospital shall complete an internal evaluation of the hospital's response to the event where opportunities for improvement relating to the emergency disaster preparedness plan were identified.



# State Enforcement Actions

Pursuant to the Rules & Regulations for Enforcement of General Licensing & Enforcement Regulations, 111-8-25, the Department may take action against an applicant or a licensee if the facility/individual:

- (1) Knowingly made a false statement of material information in connection with application for license, or on statements or documents submitted to department as part of inspection or investigation, or in alteration or falsification of records maintained by the agency, facility, institution, or entity;
- (2) Failed or refused to provide the department with access to the premises subject to regulation or information pertinent to the initial or continued licensing of the agency, facility, institution, or entity;
- (3) Failed to comply with the licensing requirements of this state; or
- (4) Failed to comply with any provision of the Code Section O.C.G.A. § 31-2-8.



# State Enforcement Remedies

## Sanctions against applicants

- Refuse to grant a license
- Prohibit persons in management and control
- Limit or restrict a license



# State Enforcement Remedies

## Sanctions against licensees

- Administer a public reprimand
- Suspend a license
- Prohibit persons in management and control
- Revoke a license
- Limit or restrict a license
- Impose a monetary fine
  - Fine amounts are based on the frequency and severity of the violation.



# Enforcement Matrix

Severity Level	Initial	Subsequent	Repeat
<b>Category I Violations</b> Violation which has caused death or serious physical or emotional harm or poses an imminent and serious threat to the physical or emotional health and safety of one or more persons in care	<b>J</b> PoC + Fine (at low end of allowable) per violation** Consider other sanction options \$601*	<b>K</b> PoC + Fine (at middle of allowable) per violation** Consider other sanction options \$800*	<b>L</b> PoC + Fine (at highest allowable) per violation** Consider other sanction options \$1000*
<b>Category II Violations</b> Violation which has direct adverse effect on the physical or emotional health and safety of a person or persons in care	<b>G</b> PoC + Fine (at low end of allowable) per violation* Consider other sanction options \$301*	<b>H</b> PoC + Fine (at middle of allowable) per violation* Consider other sanction options \$450*	<b>I</b> PoC + Fine (at highest allowable) per violation* Consider other sanction options \$600*



# Enforcement Matrix

Severity Level	Initial	Subsequent	Repeat
<p><b>Category III Violations</b></p> <p>Violation which indirectly or over a period of time has or is likely to have an adverse effect on the physical or emotional health and safety of a person or persons in care OR violation of administrative, reporting, or notice requirements.</p> <p>Follow-up required for E level or higher</p>	<p><b>D</b></p> <p>PoC</p>	<p><b>E</b></p> <p>PoC</p> <p>Consider other sanction options</p> <p>\$150*</p>	<p><b>F</b></p> <p>PoC + Fine (at highest allowable) per violation*</p> <p>Consider other sanction options</p> <p>\$300*</p>
<p><b>Substantial Compliance</b></p> <p>No follow-up required.</p> <p>No enforcement actions if these are the only violations.</p>	<p><b>A</b></p> <p>No PoC Required</p>	<p><b>B</b></p> <p>PoC</p>	<p><b>C</b></p> <p>PoC</p>



# Unlicensed Facilities

- **If the Department suspects that an entity is operating without the required license, the Department may obtain an inspection warrant.**
- **Pursuant to O.C.G.A. § 31-7-12.1 an unlicensed personal care home shall be assessed a fine of \$100.00 per bed, per day for each day of operation.**
- **The Department may seek injunctive relief for unlicensed facilities.**
- **The Department may refer the matter for prosecution as a misdemeanor.**
- **In State Fiscal Year 2016 the HFRD staff investigated 285 allegations of unlicensed personal care homes and substantiated 63 complaints. Over 40 personal care home residents were relocated as a result of this activity.**
- **HFRD partners with the Adult Protective Services (part of the Department of Human Services), the Georgia Bureau of Investigations and the DCH Inspector General to investigate unlicensed activity.**



# Appeal Rights

## Issues that may be appealed:

- ❖ **Criminal Record Check**
- ❖ **Nurse Aide Registry**
- ❖ **Long Term Care Bill of Rights**
- ❖ **Rejection of an application for licensure**
- ❖ **Sanction Issued Against a Current License**
- ❖ **License Revocation**



# Appeal Rights

- **The Department sends the opposing party a notice of intent to impose sanction(s).**
- **The opposing party has 10 days to submit a written request for a hearing to the Department.**
- **If a timely hearing request is not received, the proposed sanction becomes final.**
- **If a timely hearing request is received, we forward the case to Office of State Administrative Hearings (OSAH) for a hearing to be scheduled.**



# Office of State Administrative Hearings

- <http://www.osah.ga.gov/> has a useful search tool to find upcoming hearing dates, times, and locations.
- Decisions are available on the OSAH website as well.

# Waivers and Variances

A provider may request a waiver or variance of a specific rule by application on forms provided by the Department. The Department may grant or deny the request for waiver or variance at its discretion. If the waiver or variance is granted, the Department may establish conditions that must be met by the provider in order to operate under the waiver or variance (Rule 111-8-62-.16(1)(b) or .16(2)).

- **What is a Waiver?**
  - A waiver is a request to dispense with compliance with the rule entirely with no alternative standards proposed to be met for the specific rule to be waived.
- **What is a Variance?**
  - A variance is a request to permit some variation from the literal requirements of the rule.



# Georgia Criminal History Check System

GCHEXS allows certain facilities licensed by the Health Care Facility Regulation Division (HFRD) more flexibility in conducting criminal background checks of prospective and current employees.

GCHEXS will enable 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.



# Georgia Criminal History Check System

Facilities must first obtain a username and password from DCH to access GCHEXS.

Facilities should contact Denise Matthews, Director, Background Investigations Unit (BIU) via email at [dmatthews@dch.ga.gov](mailto:dmatthews@dch.ga.gov) to receive a username and password.

*Web link to GCHEXS:*

<https://dch.georgia.gov/georgia-criminal-background-check-system-gchexs>



# Civil Money Penalty Grants

**CMP grant funding may be used for:**

- ❖ **Direct Improvement to Quality of Care**
- ❖ **Resident or Family Councils**
- ❖ **Culture Change/Quality of Life**
- ❖ **Consumer Information**
- ❖ **Transition Preparation**
- ❖ **Training**
- ❖ **Resident Transition due to Facility Closure or Downsizing**
- ❖ **Other projects aimed to directly or indirectly benefit nursing facility residents**



# Civil Money Penalty Grants

For more information, contact:

LaKeisha Porter, Ed.D.  
CMP Grant Manager

[lakeisha.porter@dch.ga.gov](mailto:lakeisha.porter@dch.ga.gov)



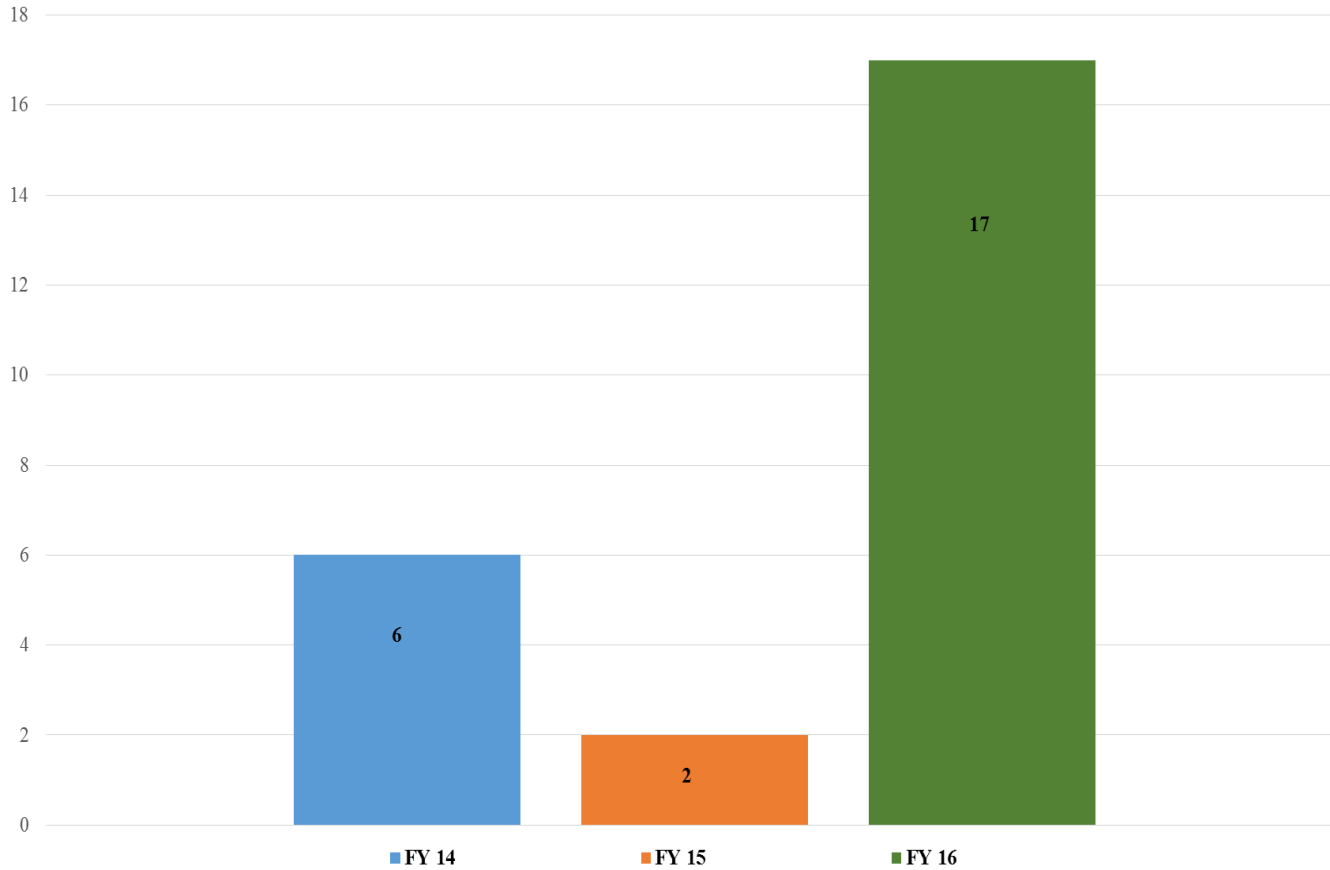
# Recent Issues

## Recent Nursing Home Relocation Activity in Georgia:

- Goodwill Health and Rehab: 124 residents relocated in 29 days
- Rockmart Nursing and Rehab: 54 residents relocated in 11 days (32 during an emergency relocation on 1/19)
- Jeffersonville Nursing and Rehab: 89 residents relocated in 20 days
- Abbeville Healthcare & Rehab: 87 residents relocated in 15 days



# Recent Issues



Moratorium on  
Narcotic Treatment  
Programs

*Recent Application Volume*

# Recent Issues

## *State Rule Changes:*

- Liability insurance is now required for Nursing Homes and Intermediate Care Homes
- Certain laboratories are exempt from state licensure
- Assisted Living Communities are required to post influenza information for residents

## *Federal Rule Changes:*

- New nursing home survey process



# Check Out Our Website

For more information:  
<http://dch.georgia.gov>

