

PART IV. HEALTH FACILITIES

Subpart	Chap.
A. GENERAL PROVISIONS	51
B. GENERAL AND SPECIAL HOSPITALS	101
C. LONG-TERM CARE FACILITIES	201
D. HEALTH PLANNING	301
E. BIRTH CENTERS	501
F. AMBULATORY SURGICAL FACILITIES	551
G. HOME HEALTH CARE AGENCIES	601
H. HOME CARE AGENCIES AND HOME CARE REGISTRIES	611

Authority

The provisions of this Part IV issued under sections 2101—3002 of The Administrative Code of 1929 (71 P.S. §§ 531—732); Articles IX and X of the Human Services Code (62 P.S. §§ 901—922 and 1001—1080); and Reorganization Plan No. 3 of 1975, unless otherwise noted.

Source

The provisions of this Part IV adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233, amended February 10, 1977, effective February 12, 1977, 7 Pa.B. 437, unless otherwise noted.

Cross References

This part cited in 28 Pa. Code § 711.2 (relating to policy); 34 Pa. Code § 403.22 (relating to health care facilities); and 55 Pa. Code § 5320.54 (relating to seclusion and restraints).

Subpart A. GENERAL PROVISIONS

Chap.	Sec.
51. GENERAL INFORMATION	51.1
53. PHOTO IDENTIFICATION BADGES	53.1

CHAPTER 51. GENERAL INFORMATION

GENERAL PROVISIONS

Sec.	
51.1.	Legal base, scope and definitions.
51.2.	Licensed facilities.
51.3.	Notification.
51.4.	Change in ownership; change in management.
51.5.	Building occupancy.
51.6.	Identification of personnel.

CIVIL RIGHTS

51.11.	Civil rights compliance
51.12.	Nondiscriminatory policy.
51.13.	Civil rights compliance records.

RESTRICTION OF PROVISION OF HEALTH CARE SERVICES

- 51.21. Surgery.
- 51.22. Cardiac catheterization.
- 51.23. Positron emission tomography.
- 51.24. Lithotripsy.

EXCEPTIONS

- 51.31. Principle.
- 51.32. Exceptions for innovative programs.
- 51.33. Requests for exceptions.
- 51.34. Revocation of exceptions.

SANCTIONS

- 51.41. Violations, penalties.

Authority

The provisions of this Chapter 51 issued under section 803(2) of the Health Care Facilities Act (35 P.S. § 448.803(2)), unless otherwise noted.

Source

The provisions of this Chapter 51 adopted June 5, 1998, effective June 6, 1998, 28 Pa.B. 2643, unless otherwise noted.

Cross References

This chapter cited in 55 Pa. Code § 6100.81 (relating to HCBS provider requirements).

GENERAL PROVISIONS**§ 51.1. Legal base, scope and definitions.**

- (a) This subpart implements the act.
- (b) This subpart contains standards which are applicable to all entities licensed as health care facilities under the act. It also identifies specific health care services which are restricted to specified health care facilities.
- (c) The following words and terms, when used in this subpart have the following meanings, unless the context clearly indicates otherwise:
 - Act*—The Health Care Facilities Act (35 P.S. §§ 448.101—448.904b).
 - Department*—The Department of Health of the Commonwealth.

§ 51.2. Licensed facilities.

The Department licenses the following health care facilities under the act:

- (1) Ambulatory surgical facilities.

- (2) General hospitals.
- (3) Special hospitals.
- (4) Long-term care nursing facilities.
- (5) Birth centers.
- (6) Home health care agencies.
- (7) Cancer treatment centers.

§ 51.3. Notification.

(a) A health care facility shall notify the Department in writing at least 60 days prior to the intended commencement of a health care service which has not been previously provided at that facility.

(b) A health care facility shall notify the Department in writing at least 60 days prior to the intended date of providing services in new beds it intends to add to its approved complement of beds.

(c) A health care facility shall provide similar notice at least 60 days prior to the effective date it intends to cease providing an existing health care service or reduce its licensed bed complement.

(d) A health care facility shall submit to the Department architectural plans and blueprints of proposed new construction, alteration or renovation to the facility. This material shall be submitted at least 60 days before the initiation of construction, alteration or renovation. The Department will review these documents to assure compliance with relevant life safety code and other regulatory requirements. The Department will respond to the facility by either issuing an approval or disapproval or requesting further information within 45 days of receipt of the facility's submission. The facility may not initiate construction, alteration or renovation until it has received an approval from the Department.

(e) If a health care facility is aware of information which shows that the facility is not in compliance with any of the Department's regulations which are applicable to that health care facility, and that the noncompliance seriously compromises quality assurance or patient safety, it shall immediately notify the Department in writing of its noncompliance. The notification shall include sufficient detail and information to alert the Department as to the reason for the failure to comply and the steps which the health care facility shall take to bring it into compliance with the regulation.

(Editor's Note: Under section 314 of the act of March 20, 2002 (P. L. 154, No. 13) (act), subsections (f) and (g) are abrogated with respect to a medical facility upon the reporting of a serious event, incident or infrastructure failure pursuant to section 313 of the act.)

(f) If a health care facility is aware of a situation or the occurrence of an event at the facility which could seriously compromise quality assurance or patient safety, the facility shall immediately notify the Department in writing. The notification shall include sufficient detail and information to alert the Department as to the reason for its occurrence and the steps which the health care facility shall take to rectify the situation.

(g) For purposes of subsections (e) and (f), events which seriously compromise quality assurance or patient safety include, but are not limited to, the following:

- (1) Deaths due to injuries, suicide or unusual circumstances.

- (2) Deaths due to malnutrition, dehydration or sepsis.
 - (3) Deaths or serious injuries due to a medication error.
 - (4) Elopements.
 - (5) Transfers to a hospital as a result of injuries or accidents.
 - (6) Complaints of patient abuse, whether or not confirmed by the facility.
 - (7) Rape.
 - (8) Surgery performed on the wrong patient or on the wrong body part.
 - (9) Hemolytic transfusion reaction.
 - (10) Infant abduction or infant discharged to the wrong family.
 - (11) Significant disruption of services due to disaster such as fire, storm, flood or other occurrence.
 - (12) Notification of termination of any services vital to the continued safe operation of the facility or the health and safety of its patients and personnel, including, but not limited to, the anticipated or actual termination of electric, gas, steam heat, water, sewer and local exchange telephone service.
 - (13) Unlicensed practice of a regulated profession.
 - (14) Receipt of a strike notice.
- (h) A health care facility shall send the written notification required under subsections (a)—(f) to the director of the division in the Department responsible for the licensure of the health care facility.
- (i) Information contained in the notification submitted to the Department by a facility under subsection (e) or (f) may not, unless otherwise ordered by a court for good cause shown, be produced for inspection or copying by, nor may the contents thereof be disclosed to, a person other than the Secretary, the Secretary's representative or another government agency, without the consent of the facility which filed the report.
- (j) The Secretary and the Secretary's representative shall use the information contained in the notification from the facility only in connection with the enforcement of the Department's responsibilities under the act, or other applicable statutes within the Department's jurisdiction.
- (k) The notification requirements of this section do not require a facility, in providing a notification under subsection (e) or (f), to include information which is deemed confidential and not reportable to the Department under other provisions of Federal or State law or regulations.
- (l) A health care facility may not commence the provision of new health care services or provide services in new beds until it has been informed by the Department that it is in compliance with all licensure requirements.

Cross References

This section cited in 28 Pa. Code § 201.14 (relating to responsibility of licensee).

§ 51.4. Change in ownership; change in management.

- (a) A health care facility shall notify the Department in writing at least 30 days prior to transfer involving 5% or more of the stock or equity of the health care facility.

(b) A health care facility shall notify the Department in writing at least 30 days prior to a change in ownership or a change in the form of ownership or name of the facility. A change in ownership shall mean any transfer of the controlling interest in a health care facility.

(c) A health care facility shall notify the Department in writing within 30 days after a change of management of a health care facility. A change in management occurs when the person responsible for the day to day operation of the health care facility changes.

§ 51.5. Building occupancy.

(a) New construction, alterations or renovations that provide space for patient or resident rooms or services may not be used or occupied until authorization for the occupancy has been received from the Department.

(b) A health care facility shall request a preoccupancy survey at least 30 days prior to the anticipated occupancy of the facility or an addition or remodeled part thereof. The Department will conduct an onsite survey of the new or remodeled portion of the health care facility prior to granting approval for occupancy. The Department may give the authorization to occupy the new or remodeled portion of the health care facility by an interim written authorization. If interim authorization for occupancy is given, the Department will provide the health care facility with formal authorization within 30 days.

Cross References

This section cited in 28 Pa. Code § 571.11 (relating to principle); and 34 Pa. Code § 403.22 (relating to health care facilities).

§ 51.6. Identification of personnel.

(a) When working in a health care facility and when clinically feasible, the following individuals shall wear an identification tag which displays that person's name and professional designation:

(1) Health care practitioners licensed or certified by Commonwealth agencies.

(2) Health care providers employed by health care facilities.

(b) The identification tag shall include the individual's full name. Abbreviated professional designations may be used only when the designation indicates licensure or certification by a Commonwealth agency, otherwise the full title shall be printed on the tag.

(c) The last name of the individual may be omitted or concealed when treating patients who exhibit symptoms of irrationality or violence.

Cross References

This section cited in 28 Pa. Code § 53.2 (relating to requirements).

CIVIL RIGHTS**§ 51.11. Civil rights compliance.**

A health care facility shall comply with all civil rights laws. The Department may make onsite visits at its discretion to verify the civil rights compliance status of the health care facility.

§ 51.12. Nondiscriminatory policy.

(a) A health care facility shall have a nondiscriminatory policy which applies to all patients or residents and staff. The policy shall include a prohibition on the segregation of buildings, wings, floors and rooms for reasons of race, color, national origin, ancestry, age, sex, religion, handicap or disability. The nondiscriminatory policy shall also address the following:

- (1) Inpatient or outpatient admission or care.
- (2) Assigning patients or residents to rooms, floors and sections.
- (3) Asking patients or residents about roommate preferences.
- (4) Assignments of staff to patient or resident services.
- (5) Staff privileges of professionally qualified personnel.
- (6) Utilization of the health care facility.
- (7) Transfers of patients or residents from their rooms.

(b) A health care facility is required to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C.A. §§ 2000e—2000e-17) and the Pennsylvania Human Relations Act (43 P. S. §§ 951—962.2) and to sign the following statement prior to receiving an initial license:

“This facility has agreed to comply with the provisions of the Federal Civil Rights Act of 1964 and the Pennsylvania Human Relations Act and all requirements imposed pursuant thereto to the end that no person shall, on the grounds of race, color, national origin, ancestry, age, sex, religious creed, or disability, be excluded from participation in, be denied benefits of, or otherwise be subject to discrimination in the provision of any care or service.”

Cross References

This section cited in 28 Pa. Code § 51.13 (relating to civil rights compliance records).

§ 51.13. Civil rights compliance records.

(a) A health care facility shall maintain the following records to show compliance with § 51.12 (relating to nondiscriminatory policy):

- (1) A copy of the health care facility’s admission policy which includes the date of its adoption, which sets forth in clear terms nondiscriminatory practices with regard to race, color, national origin, creed, ancestry, age, sex, religion, handicap or disability.
- (2) A copy of a signed and dated notification to employees of the health care facility’s nondiscrimination policy.

- (3) Evidence that the nondiscriminatory practices of the health care facility have been publicized in the community at least every 3 years by one of the following methods: newspapers, television, radio, brochure or yellow pages.
- (b) Copies of the health care facility's nondiscriminatory policy shall be posted in locations accessible to the facility's staff and the general public.
- (c) The health care facility shall provide the Department with a signed and dated copy of the nondiscriminatory policy within 30 days of the effective date of any change in the policy.

RESTRICTION OF PROVISION OF HEALTH CARE SERVICES

§ 51.21. Surgery.

Surgery shall be performed only in an acute care hospital or in a Class A, Class B or Class C ambulatory surgical facility.

§ 51.22. Cardiac catheterization.

Cardiac catheterization shall be performed only in an acute care hospital.

§ 51.23. Positron emission tomography.

Positron emission tomography (PET) scanning services shall be provided only in a hospital which complies with the regulations of the Department governing radiology and nuclear medicine services.

§ 51.24. Lithotripsy.

Lithotripsy services shall be provided only in a hospital or ambulatory surgical facility authorized to provide anesthesia services under its license.

EXCEPTIONS

§ 51.31. Principle.

The Department may grant exceptions to this part when the policy and objectives contained therein are otherwise met, or when compliance would create an unreasonable hardship and an exception would not impair or endanger the health, safety or welfare of a patient or resident. No exceptions or departures from this part will be granted if compliance with the requirement is provided for by statute.

Cross References

This section cited in 28 Pa. Code § 136.11 (relating to director); 28 Pa. Code § 138.11 (relating to director); 28 Pa. Code § 139.3 (relating to director); and 28 Pa. Code § 158.11 (relating to medical director).

§ 51.32. Exceptions for innovative programs.

This part is not intended to restrict the efforts of a health care facility to develop innovative and improved programs of management, clinical practice, physical renovation or structural design. Whenever this part appears to preclude a program which may improve the capacity of the health care facility to deliver higher quality care and services or to operate more efficiently without compro-

mising patient or resident care, the Department encourages the health care facility to request appropriate exceptions under this chapter.

Notes of Decisions

Generally

Multiple hospitals filed petition for review in the nature of an action for mandamus against the Department of Health and others to require the Department to comply with provision in the 2005 General Appropriation Bill compelling Department and others to use portion of appropriations for the “negotiation of criteria under the angioplasty demonstration project”; however, because bill sought to compel Department to undertake actions in particular way, the appropriation conflicted with the Health Care Facilities Act that gave Department exclusive jurisdiction over health care providers and was, therefore, unconstitutional. *Uniontown Hospital v. Department of Health*, 905 A.2d 560, 565 (Pa. Cmwlth. 2006).

Cross References

This section cited in 28 Pa. Code § 51.13 (relating to civil rights compliance records); 28 Pa. Code § 136.11 (relating to director); 28 Pa. Code § 138.11 (relating to director); 28 Pa. Code § 139.3 (relating to director); and 28 Pa. Code § 158.11 (relating to medical director).

§ 51.33. Requests for exceptions.

- (a) A health care facility shall make requests for exceptions to the Department in writing.
- (b) The Department will retain the requests on file and document whether they have been approved or disapproved.
- (c) Upon receipt of a request for exceptions, the request will be published in the *Pennsylvania Bulletin* with a public comment period. The Department will review these comments before making a determination to approve or disapprove an exception. The Department will publish requests for exceptions in emergency situations, but will not include a public comment period.
- (d) The Department will publish notice of all approved exceptions in the *Pennsylvania Bulletin* on a periodic basis.
- (e) The health care facility shall retain approved requests on file during the period the exception remains in effect.

Cross References

This section cited in 28 Pa. Code § 136.11 (relating to director); 28 Pa. Code § 138.11 (relating to director); 28 Pa. Code § 139.3 (relating to director); and 28 Pa. Code § 158.11 (relating to medical director).

§ 51.34. Revocation of exceptions.

- (a) An exception granted under this chapter may be revoked by the Department for justifiable reason. The Department will provide notice of the revocation in writing and will include the reason for the revocation and the date upon which the exception will be terminated.
- (b) In revoking an exception, the Department will provide for a reasonable period of time between the date of written notice of the revocation and the date of termination of an exception to afford the health care facility an opportunity to come into compliance with the applicable regulations.
- (c) If a health care facility wishes to request a reconsideration of a denial or revocation of an exception, it shall do so in writing to the director of the appropriate division within 30 days after service of the adverse notification.

Cross References

This section cited in 28 Pa. Code § 136.11 (relating to director); 28 Pa. Code § 138.11 (relating to director); 28 Pa. Code § 139.3 (relating to director); and 28 Pa. Code § 158.11 (relating to medical director).

SANCTIONS**§ 51.41. Violations, penalties.**

(a) When appropriate, the Department will work with the health care facility to rectify a violation of this part.

(b) A health care facility that violates this part may be subject to sanctions by the Department, which include:

- (1) Suspension of its license.
- (2) Revocation of its license.
- (3) Refusal to renew its license.
- (4) Limitation of its license as to operation of a portion of the health care facility or to the services which may be provided at the health care facility.
- (5) Issuance of a provisional license.
- (6) Submission of a plan of correction.
- (7) Limitation or suspension of admissions to the health care facility.

(c) A person who violates this part may be subject to a civil penalty, not to exceed \$500 per day.

[Next page is 53-1.]

51-10

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