

Subpart C. LONG-TERM CARE FACILITIES

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Cross References

This subpart cited in 31 Pa. Code § 243.6 (relating to standards for institutional plan of risk management for hospitals and nursing homes); 31 Pa. Code § 244.3 (relating to standards for institutional plan of risk management for hospitals and nursing homes); and 55 Pa. Code § 6100.2 (relating to applicability).

CHAPTER 201. APPLICABILITY, DEFINITIONS, OWNERSHIP AND GENERAL OPERATION OF LONG-TERM CARE NURSING FACILITIES

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Source

The provisions of this Chapter 201 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233, unless otherwise noted.

GENERAL PROVISIONS

§ 201.1. Applicability.

This subpart applies to long-term care nursing facilities as defined in section 802.1 of the act (35 P.S. § 448.802a).

Authority

The provisions of this § 201.1 amended under sections 102, 201(12), 601, 801.1 and 803 of the Health Care Facilities Act (35 P.S. §§ 448.102, 448.201(12), 448.601, 448.801a and 448.803); and section 2102(a) and (g) of The Administrative Code of 1929 (71 P.S. § 532(a) and (g)).

Source

The provisions of this § 201.1 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233; amended February 11, 1977, effective February 12, 1977, 7 Pa.B. 437; amended April 23, 1982, effective April 24, 1982, 12 Pa.B. 1316; amended January 30, 1987, effective July 1, 1987, 17 Pa.B. 514; amended July 23, 1999, effective July 24, 1999, 29 Pa.B. 3999; amended December 23, 2022, effective July 1, 2023, 52 Pa.B. 8043. Immediately preceding text appears at serial page (412134).

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§ 201.2. Requirements.

(a) The Department incorporates by reference 42 CFR Part 483, Subpart B of the Federal requirements for long-term care facilities, (relating to requirements for long-term care facilities), as licensing regulations for long-term care nursing facilities, with the exception of 42 CFR 483.1 (relating to basis and scope) and the requirements under 42 CFR Part 483 Subpart B for the transmission of data and minimum data set (MDS) reporting to the Centers for Medicare & Medicaid Services (CMS) unless the facility is participating in the Medicare or Medical Assistance Program.

(b) A facility may apply for an exception to the requirements of this subpart under §§ 51.31—51.34 (relating to exceptions).

Authority

The provisions of this § 201.2 amended under sections 102, 201(12), 601, 801.1 and 803 of the Health Care Facilities Act (35 P.S. §§ 448.102, 448.201(12), 448.601, 448.801a and 448.803); and section 2102(a) and (g) of The Administrative Code of 1929 (71 P.S. § 532(a) and (g)).

Source

The provisions of this § 201.2 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233; amended July 6, 1979, effective July 7, 1979, 9 Pa.B. 2252; amended January 31, 1987, effective July 1, 1987, 17 Pa.B. 514; amended July 23, 1999, effective July 24, 1999, 29 Pa.B. 3999; amended December 23, 2022, effective July 1, 2023, 52 Pa.B. 8043. Immediately preceding text appears at serial pages (412134) and (258313).

§ 201.3. Definitions.

The following words and terms, when used in this subpart, have the following meanings, unless the context clearly indicates otherwise:

Abuse—As defined in 42 CFR 483.5 (relating to definitions).

Act—The Health Care Facilities Act (35 P.S. §§ 448.101—448.904b).

Administration of medication—The giving of a dose of medication to a resident as a result of an order of a practitioner licensed by the Commonwealth to prescribe medications.

Administrator—As defined in 42 CFR 483.70(d)(2) (relating to administration). The administrator shall be currently licensed and registered by the Department of State under the Nursing Home Administrators License Act (63 P.S. §§ 1101—1114.2).

Authorized person to administer medications—Persons qualified to administer medications in facilities are as follows:

(i) Physicians and dentists who are currently licensed by the Bureau of Professional and Occupational Affairs, Department of State.

(ii) Registered nurses who are currently licensed by the Bureau of Professional and Occupational Affairs, Department of State.

(iii) Practical nurses who have successfully passed the State Board of Nursing examination.

(iv) Practical nurses licensed by waiver in this Commonwealth who have successfully passed the United States Public Health Service Proficiency Examination.

(v) Practical nurses licensed by waiver in this Commonwealth who have successfully passed a medication course approved by the State Board of Nursing.

(vi) Student nurses of approved nursing programs who are functioning under the direct supervision of a member of the school faculty who is present in the facility.

(vii) Recent graduates of approved nursing programs who possess valid temporary practice permits and who are functioning under the direct supervision of a professional nurse who is present in the facility. The permits shall expire if the holders of the permits fail the licensing examinations.

(viii) Physician assistants and registered nurse practitioners who are certified by the Bureau of Professional and Occupational Affairs.

Basement—A story or floor level below the main or street floor. If, due to grade differences, there are two levels qualifying as a street floor, a basement is a floor below the lower of the two street floors.

CRNP—certified registered nurse practitioner—A registered nurse licensed in this Commonwealth who is certified by the State Board of Nursing and the State Board of Medicine as a CRNP, under The Professional Nursing Law (63 P.S. §§ 211—225) and the Medical Practice Act of 1985 (63 P.S. §§ 422.1—422.45).

Charge nurse—A person designated by the facility who is experienced in nursing service administration and supervision and in areas such as rehabilitative or geriatric nursing or who acquires the preparation through formal staff development programs and who is licensed by the Commonwealth as one of the following:

(i) An RN.

(ii) An RN licensed by another state as an RN and who has applied for endorsement from the State Board of Nursing and has received written notice that the application has been received by the State Board of Nursing. This subparagraph applies for 1 year, or until Commonwealth licensure is completed, whichever period is shorter.

(iii) [Reserved].

(iv) An LPN designated by the facility as a charge nurse on the night tour of duty in a facility with a census of 59 or less in accordance with § 211.12 (relating to nursing services).

Clinical laboratory—As defined in 42 U.S.C.A. § 263a(a).

Construction, alteration or renovation—The erection, building, remodeling, modernization, improvement, extension or expansion of a facility, or the conversion of a building or portion thereof to a facility. The term does not include part-for-part replacement or regular facility maintenance.

Controlled substance—A drug, substance or immediate precursor included in Schedules I—V of the Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§ 780-101—780-144).

Corridor—A passageway, hallway or other common avenue used by residents and personnel to travel between buildings or sections of the same building to reach a common exit or service area. The service area includes, but is not limited to, living room, kitchen, bathroom, therapy rooms and storage areas not immediately adjoining the resident's sleeping quarters.

Department—The Department of Health of the Commonwealth.

Director of nursing services—An RN designated by a facility under 42 CFR 483.35(b)(2) (relating to nursing services) and has 1 year of experience or education in nursing service administration and supervision, as well as additional education or experience in areas such as rehabilitative or geriatric nursing, and participates annually in continuing nursing education.

Discharge—The movement of a resident from a bed in one certified facility to a bed in another certified facility or other location in the community, when return to the original facility is not expected.

Elopement—When a resident leaves the premises or a safe area without authorization.

Exit or exitway—A means of egress which is lighted and has three components: an exit access (corridor leading to the exit), an exit (a door) and an exit discharge (door to the street or public way).

Exploitation—As defined in 42 CFR 483.5.

Facility—A licensed long-term care nursing facility as defined in Chapter 8 of the act (35 P.S. §§ 448.801—448.821).

Full-time—A minimum of a 35-hour work week.

Full compliance—Means total compliance.

Health care practitioner—As defined in section 103 of the act (35 P.S. § 448.103).

Interdisciplinary team—As defined in 42 CFR 483.21(b)(2)(ii) (relating to comprehensive person-centered care planning).

Intimidation—As defined in section 3 of the Older Adults Protective Services Act (35 P.S. § 10225.103).

Involuntary seclusion—Separation of a resident from other residents or from the resident's room or confinement with or without roommates against the resident's will, or the will of the resident's representative, excluding emergency or short term monitored separation from other residents for a limited period of time as a therapeutic intervention to reduce agitation until professional staff can develop a plan of care to meet the resident's needs.

LPN—licensed practical nurse—A practical nurse licensed to practice under the Practical Nurse Law (63 P.S. §§ 651—667.8) and the regulations of the State Board of Nursing in 49 Pa. Code Chapter 21, Subchapter B (relating to practical nurses).

Licensee—The individual, partnership, association or corporate entity including a public agency or religious or fraternal or philanthropic organization authorized to operate a licensed facility.

Long-term care ombudsman—An individual at the State or local level who is responsible for carrying out the duties and functions under section 3058g of the State Long-Term Care Ombudsman Program (42 U.S.C.A. § 3058g).

Medication—A substance meeting one of the following qualifications:

- (i) Is recognized in the official United States pharmacopeia, or official National formulary or a supplement to either of them.
- (ii) Is intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals.
- (iii) Is other than food and intended to affect the structure or a function of the human body or other animal body.
- (iv) Is intended for use as a component of an article specified in subparagraphs (i), (ii) or (iii), but not including devices or their components, parts or accessories.

Medication administration—An act in which a single dose of a prescribed medication or biological is given to a resident by an authorized person in accordance with statutes and regulations governing the act. The complete act of administration entails removing an individual dose from a previously dispensed, properly labeled container, verifying it with the physician's orders, giving the individual dose to the proper resident and promptly recording the time and dose given.

Medication dispensing—An act by a practitioner or a person who is licensed in this Commonwealth to dispense medications under the Pharmacy Act (63 P.S. §§ 390-1—390-13) entailing the interpretation of an order for a medication or biological and, under that order, the proper selecting, measuring, labeling, packaging and issuance of the medication or biological for a resident or for a service unit of the facility.

Mental abuse—Includes humiliation, harassment, threats of punishment or deprivation.

Misappropriation of resident property—As defined in 42 CFR 483.5.

Mistreatment—As defined in 42 CFR 483.5.

NFPA—National Fire Protection Association.

Neglect—As defined in 42 CFR 483.5.

Non-prescription medication—An over-the-counter medication legally purchased without a prescription.

Nurse aide—An individual, as defined in 42 CFR 483.5, providing nursing or nursing-related services to residents in a facility who:

- (i) Does not have a license to practice professional or practical nursing in this Commonwealth.
- (ii) Does not volunteer services for no pay.

(iii) Has met the requisite training and competency evaluation requirements as defined in 42 CFR 483.35 (relating to nursing services).

(iv) Appears on the Commonwealth's Nurse Aide Registry.

(v) Has no substantiated findings of abuse, neglect or misappropriation of resident property recorded in the Nurse Aide Registry.

Nursing care—A planned program to meet the physical and emotional needs of the resident. The term includes procedures that require nursing skills and techniques applied by properly trained personnel.

Nursing service personnel—Registered nurses, licensed practical nurses and nurse aides.

Person—As defined in section 103 of the act.

Pharmacist—A person licensed by the State Board of Pharmacy to engage in the practice of pharmacy.

Pharmacy—A place properly licensed by the State Board of Pharmacy where the practice of pharmacy is conducted.

Physical abuse—Includes hitting, slapping, pinching and kicking. The term also includes controlling behavior through corporal punishment.

Physician assistant—An individual certified as a physician assistant by the State Board of Medicine under the Medical Practice Act of 1985, or by the State Board of Osteopathic Medical Examiners under the Osteopathic Medical Practice Act (63 P.S. §§ 271.1—271.18).

Practitioner—A health care practitioner as defined in section 103 of the act.

Prescription—A written or verbal order for medications issued by a health care practitioner in the course of professional practice.

Qualified dietician—As defined in 42 CFR 483.60(a)(1) (relating to food and nutrition services).

Qualified social worker—As defined in 42 CFR 483.70(p).

Qualified therapeutic recreation specialist—As defined in 42 CFR 483.24(c) (relating to quality of life).

RN—registered nurse—An individual licensed to practice professional nursing under The Professional Nursing Law and the regulations of the State Board of Nursing in 49 Pa. Code Chapter 21, Subchapter A (relating to registered nurses).

Resident—A person who is admitted to a licensed long-term care nursing facility for observation, treatment or care for illness, disease, injury or other disability.

Resident representative—As defined in 42 CFR 483.5.

Restraint—A restraint can be physical or chemical.

(i) A physical restraint includes any manual method, physical or mechanical device, equipment or material that is attached or adjacent to the resident's body, cannot be removed easily by the resident, and restricts the resident's freedom of movement or normal access to the resident's body.

(ii) A chemical restraint includes any medication that is used for discipline or convenience and not required to treat medical symptoms.

Serious bodily injury—As defined in section 3 of the Older Adults Protective Services Act.

Serious physical injury—As defined in section 3 of the Older Adults Protective Services Act.

Sexual abuse—Non-consensual contact of any type with a resident, including sexual harassment, sexual coercion or sexual assault.

Substantial compliance—

(i) cited deficiencies are, individually and in combined effect, of a minor nature such that neither the deficiencies nor efforts toward their correction will interfere with or adversely affect normal facility operations or adversely affect any resident's health or safety; and

(ii) the facility has implemented a plan of correction approved by the Department.

Transfer—The movement of a resident from a bed in one certified facility to a bed in another certified facility when the resident expects to return to the original facility.

Verbal abuse—Use of oral, written or gestured language that willfully includes disparaging and derogatory terms to residents or their families, or within their hearing distance, regardless of their age, ability to comprehend or disability. Examples of verbal abuse include:

(i) Threats of harm.

(ii) Saying things to frighten a resident, such as telling a resident that the resident will never be able to see the resident's family again.

Authority

The provisions of this § 201.3 amended under sections 102, 201(12), 601, 801.1 and 803 of the Health Care Facilities Act (35 P.S. §§ 448.102, 448.201(12), 448.601, 448.801a and 448.803); and section 2102(a) and (g) of The Administrative Code of 1929 (71 P.S. § 532(a) and (g)).

Source

The provisions of this § 201.3 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233; amended October 1, 1976, effective October 2, 1976, 6 Pa.B. 2441; amended February 11, 1977, effective February 12, 1977, 7 Pa.B. 437; amended May 6, 1977, effective May 7, 1977, 7 Pa.B. 1236; amended May 26, 1978, effective May 27, 1978, 8 Pa.B. 1466; amended July 6, 1979, effective July 7, 1979, 9 Pa.B. 2252; amended April 23, 1982, effective April 24, 1982, 12 Pa.B. 1316; amended January 31, 1987, effective July 1, 1987, 17 Pa.B. 514; corrected June 19, 1987, 17 Pa.B. 2462; amended July 23, 1999, effective July 24, 1999, 29 Pa.B. 3999; amended December 23, 2022, effective July 1, 2023, 52 Pa.B. 8043. Immediately preceding text appears at serial pages (258315) to (258322) and (412135).

Cross References

This section cited in 28 Pa. Code § 211.9 (relating to pharmacy services).

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OWNERSHIP AND MANAGEMENT**§ 201.11. Types of ownership.**

The owner of a facility may be an individual, a partnership, an association, a corporation or combination thereof.

Authority

The provisions of this § 201.11 amended under section 803 of the Health Care Facilities Act (35 P.S. § 448.803); and section 2102(g) of The Administrative Code of 1929 (71 P.S. § 532(g)).

Source

The provisions of this § 201.11 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233; amended January 31, 1987, effective July 1, 1987, 17 Pa.B. 514; amended July 23, 1999, effective July 24, 1999, 29 Pa.B. 3999. Immediately preceding text appears at serial page (202317).

§ 201.12. Application for license of a new facility or change in ownership.

(a) [Reserved].

(a.1) A person may not operate or assume ownership of a facility without first obtaining a license from the Department.

(a.2) A prospective licensee of a facility shall obtain an application form from the Division of Nursing Care Facilities, Department of Health.

(b) In addition to the completed application and fee required under section 807 of the act (35 P.S. § 448.807), a prospective licensee of a facility shall submit the following:

(1) The names, addresses, e-mail addresses and phone numbers of any person who meets any of the following:

(i) Has or will have a direct or indirect ownership interest of 5% or more in the facility.

(ii) Holds or will hold the license or ownership interest in the land on which the facility is located or the building in which the facility is located.

(iii) Owns or will own a whole or part interest in any mortgage, deed, trust, note or other long-term liability secured in whole or in part by the equipment used in the facility, the land on which the facility is located or the building in which the facility is located.

(2) If a person identified in paragraph (1) is a nonprofit corporation, a complete list of the names, addresses, e-mail addresses and phone numbers of the officers and directors of the corporation and an exact copy of its charter and articles of incorporation which are on file with the Department of State as well as amendments or changes.

(3) If a person identified in paragraph (1) is a partnership, the names, addresses, e-mail addresses and phone numbers of partners.

(4) The name, address, e-mail address, phone number and license number of the administrator.

- (5) The names, addresses, e-mail addresses and phone numbers of any persons who have or will have an interest in the management of the facility.
- (6) The names, addresses, e-mail addresses and phone numbers of the facility's officers and members of the board of directors.
- (7) The names, addresses, e-mail addresses and phone numbers of the following:
- (i) A parent company.
 - (ii) A shareholder.
 - (iii) A related party of the persons identified in paragraphs (1) through (6).
- (8) An annual financial report which shall include the following:
- (i) Audited financial statements prepared in accordance with generally accepted accounting principles (GAAP). If GAAP requires consolidated financial statements, then consolidated statements shall be provided.
 - (ii) A visual representation of the current ownership structure, which must include parent companies, shareholders and any related parties of the persons identified in paragraphs (1) through (6).
 - (iii) A supplemental schedule of annual gross revenues, prepared in accordance with GAAP. The supplemental schedule shall be broken out by payor type.
- (9) A list of every licensed long-term care nursing facility in any state, the District of Columbia or territory in which the prospective licensee has or has had a direct or indirect interest of 5% or more in the ownership, management or real property.
- (10) The prospective licensee's licensing and regulatory history in all jurisdictions where the prospective licensee has or has had a direct or indirect ownership interest of 5% or more in a facility.
- (11) A detailed summary of adjudicated or settled civil actions or criminal actions filed against the prospective licensee.
- (12) A list of any persons, identified in paragraph (1), who have experienced financial distress that resulted in a bankruptcy, receivership, assignment, debt consolidation or restructuring, mortgage foreclosure, corporate integrity agreement, or sale or closure of a long-term care nursing facility, the land it sits on or the building in which it is located.
- (13) Identification of whether an immediate family member relationship exists between a prospective licensee, a person under paragraph (1) and a person under paragraph (7).
- (14) Additional information the Department may require.
- (c) For the purposes of subsection (B), a "related party" is a person that provides a service, facility or supply to a long-term care nursing facility or that is under common ownership or control, as defined in 42 CFR 413.17(b) (relating to cost to related organizations). The term includes the following:
- (1) A home office.

- (2) A management organization.
 - (3) An owner of real estate.
 - (4) An entity that provides staffing, therapy, pharmaceutical, marketing, administrative management, consulting, insurance or similar services.
 - (5) A provider of supplies and equipment.
 - (6) A financial advisor or consultant.
 - (7) A banking or financial entity.
 - (8) A parent company, holding company or sister organization.
- (d) For the purposes of subsection (b), an “immediate family member” includes a spouse, biological parent, biological child, sibling, adopted child, adoptive parent, stepparent, stepchild, stepsibling, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law, grandparent or grandchild.
- (e) In addition to the information required under subsection (b), a prospective licensee of a facility shall provide all of the following:
- (1) A proposed staffing and hiring plan, which shall include the management and oversight staff, the structure of the facility’s governing body and its participants.
 - (2) A proposed training plan for staff.
 - (3) A proposed emergency preparedness plan that meets the requirements of 42 CFR 483.73(a) (relating to emergency preparedness).
 - (4) Proposed standard admissions agreements.
 - (5) A detailed budget for 3 years of operations, prepared in accordance with GAAP, and evidence of access to sufficient capital needed to operate the facility in accordance with the budget and the facility assessment conducted under 42 CFR 483.70(e) (relating to administration).
- (f) A prospective licensee who fails, under this section, to demonstrate capacity to operate a facility, will be given 30 days from the date of the denial of an application to cure the application. A prospective licensee will be permitted one opportunity, under this subsection, in which to cure the application.

Authority

The provisions of this § 201.12 amended under sections 102, 201(12), 601, 801.1 and 803 of the Health Care Facilities Act (35 P.S. §§ 448.102, 448.201(12), 448.601, 448.801a and 448.803); and section 2102(a) and (g) of The Administrative Code of 1929 (71 P.S. § 532(a) and (g)).

Source

The provisions of this § 201.12 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233; reserved April 23, 1982, effective April 24, 1982, 12 Pa.B. 1316; amended January 31, 1987, effective July 1, 1987, 17 Pa.B. 514; amended July 23, 1999, effective July 24, 1999, 29 Pa.B. 3999; amended December 23, 2022, effective October 31, 2023, 52 Pa.B. 8163. Immediately preceding text appears at serial pages (412135) to (412136).

Cross References

This section cited in 28 Pa. Code § 201.12a (relating to notice and opportunity to comment); 28 Pa. Code § 201.12b (relating to evaluation of application for license of a new facility or change in ownership); and 28 Pa. Code § 201.18 (relating to management).

§ 201.12a. Notice and opportunity to comment.

(a) In addition to the requirements in § 201.12 (relating to application for license of a new facility or change in ownership), a prospective licensee of a new facility shall concurrently provide written notice to the Office of the State Long-Term Care Ombudsman when the prospective licensee submits its application.

(b) In addition to the requirements in § 201.12, a prospective licensee for a change in ownership of a facility shall concurrently provide written notice to all of the following:

(1) Residents of the facility being purchased or acquired, and their resident representatives.

(2) Employees of the facility being purchased or acquired.

(3) The Office of the State Long-Term Care Ombudsman.

(c) The written notice shall provide all of the following information:

(1) The name and address of the facility.

(2) The name and address of the prospective licensee.

(3) The contact information for the State Long-Term Care Ombudsman.

(4) A statement that an application for licensure has been submitted to the Department and more information regarding the application, including the ability to comment, may be found on the Department's web site.

(d) The Department will post notice of the receipt of an application for license of a new facility or change in ownership and a copy of the completed application form submitted under § 201.12 on the department's web site and provide a 10-day public comment period.

Authority

The provisions of this § 201.12a added under sections 102, 201(12), 601, 801.1 and 803 of the Health Care Facilities Act (35 P.S. §§ 448.102, 448.201(12), 448.601, 448.801a and 448.803); and section 2102(a) and (g) of The Administrative Code of 1929 (71 P.S. § 532(a) and (g)).

Source

The provisions of this § 201.12a added December 23, 2022, subsections (a)—(c)(3) are effective July 1, 2023, subsections (c)(4) and (d) are effective October 31, 2023, 52 Pa.B. 8163.

§ 201.12b. Evaluation of application for license of a new facility or change in ownership.

(a) The Department will conduct an evaluation of the application, which will include consideration of the application form and documents submitted under § 201.12 (relating to application for license of a new facility or change in ownership) and comments submitted under § 201.12a(d) (relating to notice and opportunity to comment).

(b) Upon completion of the evaluation conducted under subsection (a), the Department will approve or deny the application and post notice of the approval or denial of the application on the Department's web site.

(c) The Department will consider the following in determining whether to approve or deny an application:

- (1) The prospective licensee's past performance related to owning or operating a facility in this Commonwealth or other jurisdictions.
- (2) The prospective licensee's demonstrated financial and organizational capacity and capability to successfully perform the requirements of operating a facility based on the information provided under § 201.12.
- (3) The prospective licensee's demonstrated history and experience with regulatory compliance, including evidence of consistent performance in delivering quality care.
- (4) Comments submitted under § 201.12a(d).

Authority

The provisions of this § 201.12b added under sections 102, 201(12), 601, 801.1 and 803 of the Health Care Facilities Act (35 P.S. §§ 448.102, 448.201(12), 448.601, 448.801a and 448.803); and section 2102(a) and (g) of The Administrative Code of 1929 (71 P.S. § 532(a) and (g)).

Source

The provisions of this § 201.12b added December 23, 2022, subsections (a), (d) and (e) are effective July 1, 2023, subsections (b) and (c) are effective October 31, 2023, 52 Pa.B. 8163.

Cross References

This section cited in 28 Pa. Code § 201.12b (relating to evaluation of application for license of a new facility or change in ownership).

§ 201.13. Issuance of license for a new facility or change in ownership.

- (a) [Reserved].
- (b) A license to operate a facility will be issued when the Department has determined that the necessary requirements for licensure have been met under this part.
- (c) [Reserved].
- (d) The license will be issued to the owner of a facility and will indicate the name and address of the facility, the name and address of the owner of the facility, the number of beds authorized and the date of the valid license.
- (e) [Reserved].
- (f) [Reserved].
- (g) [Reserved].
- (h) [Reserved].
- (i) [Reserved].

Authority

The provisions of this § 201.13 amended under sections 102, 201(12), 601, 801.1 and 803 of the Health Care Facilities Act (35 P.S. §§ 448.102, 448.201(12), 448.601, 448.801a and 448.803); and section 2102(a) and (g) of The Administrative Code of 1929 (71 P.S. § 532(a) and (g)).

Source

The provisions of this § 201.13 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233; amended February 11, 1977, effective February 12, 1977, 7 Pa.B. 437; amended April 23, 1982, effective April 24, 1982, 12 Pa.B. 1316; amended January 31, 1987, effective July 1, 1987, 17 Pa.B. 514; amended July 23, 1999, effective July 24, 1999, 29 Pa.B. 3999; amended December 23, 2022, effective July 1, 2023, 52 Pa.B. 8163. Immediately preceding text appears at serial pages (412136) to (412137) and (336939).

§ 201.13a. Regular license.

The Department will issue a regular 1-year license when the facility is in full compliance with section 808 of the act (35 P.S. § 448.808) and is in full or substantial compliance with the provisions of this subpart.

Authority

The provisions of this § 201.13a added under sections 102, 201(12), 601, 801.1 and 803 of the Health Care Facilities Act (35 P.S. §§ 448.102, 448.201(12), 448.601, 448.801a and 448.803); and section 2102(a) and (g) of The Administrative Code of 1929 (71 P.S. § 532(a) and (g)).

Source

The provisions of this § 201.13a added December 23, 2022, effective July 1, 2023, 52 Pa.B. 8163.

§ 201.13b. Provisional license.

(a) Under section 812 of the act (35 P.S. § 448.812), the Department may issue a provisional license if there are numerous deficiencies or a serious specific deficiency and the facility is not in substantial compliance with this subpart and the Department finds that:

(1) The facility is taking appropriate steps to correct the deficiencies in accordance with a timetable submitted by the facility and agreed upon by the Department.

(2) There is no cyclical pattern of deficiencies over a period of 2 or more years.

(b) A provisional license will be issued for a specified time period of no more than 6 months.

(c) Upon a determination of substantial compliance, including the payment of any fines and fees, a regular license will be issued.

Authority

The provisions of this § 201.13b added under sections 102, 201(12), 601, 801.1 and 803 of the Health Care Facilities Act (35 P.S. §§ 448.102, 448.201(12), 448.601, 448.801a and 448.803); and section 2102(a) and (g) of The Administrative Code of 1929 (71 P.S. § 532(a) and (g)).

Source

The provisions of this § 201.13b added December 23, 2022, effective July 1, 2023, 52 Pa.B. 8163.

Cross References

This section cited in 28 Pa. Code § 201.13c (relating to license renewal).

§ 201.13c. License renewal.

(a) A facility shall apply to renew its license on a form prescribed by the Department with the fee required under section 807(b) of the act (35 P.S. § 448.807(b)).

(b) In addition to the application form and fee under subsection (a), a facility shall submit an updated annual financial report that meets the requirements set forth in § 201.12(b)(8) (relating to application for license of a new facility or change in ownership).

(c) A facility shall file an application to renew its license and the updated financial report at least 21 days before the expiration of the current license, unless otherwise directed by the Department.

(d) The Department will renew a regular 1-year license under this section if the facility is in full compliance with section 808 of the act (35 P.S. § 448.808) and is in full or substantial compliance with the provisions of this subpart.

(e) A provisional license issued in accordance with section 812 of the act (35 P.S. § 448.812) and § 201.13b (relating to provisional license) may be renewed, no more than three times at the discretion of the Department.

Authority

The provisions of this § 201.13c added under sections 102, 201(12), 601, 801.1 and 803 of the Health Care Facilities Act (35 P.S. §§ 448.102, 448.201(12), 448.601, 448.801a and 448.803); and section 2102(a) and (g) of The Administrative Code of 1929 (71 P.S. § 532(a) and (g)).

Source

The provisions of this § 201.13c added December 23, 2022, subsections (a), (d) and (e) are effective July 1, 2023, subsections (b) and (c) are effective October 31, 2023, 52 Pa.B. 8163.

§ 201.14. Responsibility of licensee.

(a) The licensee is responsible for meeting the minimum standards for the operation of a facility as set forth by the Department and by other Federal, State and local agencies responsible for the health and welfare of residents. This includes complying with all applicable Federal and State laws, and rules, regulations and orders issued by the Department and other Federal, State or local agencies.

(b) If services are purchased for the administration or management of the facility, the licensee is responsible for ensuring compliance with all applicable Federal and State laws, and rules, regulations and orders issued by the Department and other Federal, State and local agencies.

(c) The licensee through the administrator shall report as soon as possible, or, at the latest, within 24 hours to the appropriate Division of Nursing Care Facilities field office serious incidents involving residents as set forth in § 51.3 (relating to notification). For purposes of this subpart, references to patients in § 51.3 include references to residents.

(d) [Reserved].

- (e) [Reserved].
- (f) Upon receipt of a strike notice, the licensee or administrator shall promptly notify the appropriate Division of Nursing Care Facilities field office, and the Office of the State Long-Term Care Ombudsman, and keep the Department apprised of the strike status and the measures being taken to provide resident care during the strike.
- (g) A facility owner shall pay in a timely manner bills incurred in the operation of a facility that are not in dispute and that are for services without which the resident's health and safety are jeopardized.
- (h) The facility shall report to the Department census, rate, program occupancy and any other information the Department may request. The Department will provide advance notice of new reporting requirements, except in instances of an emergency.
- (i) The facility shall have on file the most recent inspection reports, relating to the health and safety of residents, indicating compliance with applicable Federal, State and local statutes and regulations. Upon request, the facility shall make the most recent report available to interested persons.
- (j) The facility shall conduct a facility-wide assessment that meets the requirements of 42 CFR 483.70(e) (relating to administration), as necessary, but at least quarterly.

Authority

The provisions of this § 201.14 amended under sections 102, 201(12), 601, 801.1a and 803 of the Health Care Facilities Act (35 P.S. §§ 448.102, 448.201(12), 448.601, 448.801a and 448.803); and section 2102(a) and (g) of The Administrative Code of 1929 (71 P.S. § 532(a) and (g)).

Source

The provisions of this § 201.14 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233; amended February 11, 1977, effective February 12, 1977, 7 Pa.B. 437; amended April 23, 1982, effective April 24, 1982, 12 Pa.B. 1316; amended January 31, 1987, effective July 1, 1987, 17 Pa.B. 514; amended July 23, 1999, effective July 24, 1999, 29 Pa.B. 3999; amended December 23, 2022, effective July 1, 2023, 52 Pa.B. 8163. Immediately preceding text appears at serial pages (336939) to (336940).

Notes of Decisions

The Commonwealth's pervasive regulation of the nursing home industry does not preempt a local school district from levying and collecting business privilege taxes from a private, for-profit nursing home. *Rose View Manor, Inc. v. Williamsport*, 630 A.2d 474 (Pa. Cmwlth. 1993); appeal denied 641 A.2d 591 (Pa. 1994).

§ 201.15. Restrictions on license.

- (a) [Reserved].
- (b) A license becomes automatically void without notice if any of the following conditions exist:

- (1) The license term expires unless the term expires due to a departmental delay, a Federal emergency or State disaster emergency.
 - (2) There is a change in ownership and the Department has not given prior approval.
 - (3) There is a change in the name of the facility, and the Department has not given prior approval.
 - (4) There is a change in the location of the facility and the Department has not given prior approval.
- (c) [Reserved].

Authority

The provisions of this § 201.15 amended under sections 102, 201(12), 601, 801.1 and 803 of the Health Care Facilities Act (35 P.S. §§ 448.102, 448.201(12), 448.601, 448.801a and 448.803); and section 2102(a) and (g) of The Administrative Code of 1929 (71 P.S. § 532(a) and (g)).

Source

The provisions of this § 201.15 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233; amended July 6, 1979, effective July 7, 1979, 9 Pa.B. 2252; amended April 23, 1982, effective April 24, 1982, 12 Pa.B. 1316; amended January 31, 1987, effective July 1, 1987, 17 Pa.B. 514; amended July 23, 1999, effective July 24, 1999, 29 Pa.B. 3999; amended December 23, 2022, effective July 1, 2023, 52 Pa.B. 8163. Immediately preceding text appears at serial pages (336940) and (258327).

§ 201.15a. Enforcement.

Actions the Department may take to enforce compliance with the act and this subpart include but are not limited to the following:

- (a) Requiring a plan of correction.
- (b) Issuance of a provisional license.
- (c) License revocation.
- (d) Appointment of a temporary manager.
- (e) Limitation or suspension of admissions to the facility.
- (f) Assessment of fines or civil monetary penalties.

Authority

The provisions of this § 201.15a added under sections 102, 201(12), 601, 801.1 and 803 of the Health Care Facilities Act (35 P.S. §§ 448.102, 448.201(12), 448.601, 448.801a and 448.803); and section 2102(a) and (g) of The Administrative Code of 1929 (71 P.S. § 532(a) and (g)).

Source

The provisions of this § 201.15a added December 23, 2022, effective July 1, 2023, 52 Pa.B. 8163.

§ 201.15b. Appeals.

A final order or determination of the Department relating to licensure may be appealed by the provider of services to the Health Policy Board under section 2102(n) of The Administrative Code of 1929 (71 P.S. § 532(n)).

Authority

The provisions of this § 201.15b added under sections 102, 201(12), 601, 801.1 and 803 of the Health Care Facilities Act (35 P.S. §§ 448.102, 448.201(12), 448.601, 448.801a and 448.803); and section 2102(a) and (g) of The Administrative Code of 1929 (71 P.S. § 532(a) and (g)).

Source

The provisions of this § 201.15b added December 23, 2022, effective July 1, 2023, 52 Pa.B. 8163.

§ 201.16. [Reserved].**Source**

The provisions of this § 201.16 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233; amended April 23, 1982, effective April 24, 1982, 12 Pa.B. 1316; amended January 31, 1987, effective July 1, 1987, 17 Pa.B. 514; reserved July 23, 1999, effective July 24, 1999, 29 Pa.B. 3999. Immediately preceding text appears at serial pages (202321) to (202322).

§ 201.17. Location.

With the approval of the Department, a facility may be located in a building with other providers and share services as follows:

- (1) The provider is licensed, as applicable.
- (2) The provider operates or provides other health-related services, such as personal care, home health or hospice services.
- (3) The shared services may include services such as laundry, pharmacy and meal preparations.
- (4) The facility shall be operated as a unit distinct from other health-related services.

Authority

The provisions of this § 201.17 amended under sections 102, 201(12), 601, 801.1 and 803 of the Health Care Facilities Act (35 P.S. §§ 448.102, 448.201(12), 448.601, 448.801a and 448.803); and section 2102(a) and (g) of The Administrative Code of 1929 (71 P.S. § 532(a) and (g)).

Source

The provisions of this § 201.17 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233; amended July 6, 1979, effective July 7, 1979, 9 Pa.B. 2252; amended April 23, 1982, effective April 24, 1982, 12 Pa.B. 1312, 1316; amended January 31, 1987, effective July 1, 1987, 17 Pa.B. 514; amended July 23, 1999, effective July 24, 1999, 29 Pa.B. 3999; amended December 23, 2022, effective July 1, 2023, 52 Pa.B. 8163. Immediately preceding text appears at serial page (258327).

§ 201.18. Management.

- (a) [Reserved].
- (b) In addition to the requirements under 42 CFR 483.70(d) (relating to administration), the governing body of a facility shall adopt and enforce rules relative to:
 - (1) The health care and safety of the residents.

(2) Protection of personal and property rights of the residents, while in the facility, and upon discharge or after death, including the return of any personal property remaining at the facility within 30 days after discharge or death.

(3) The general operation of the facility.

(c) The governing body shall report to the Department within 30 days changes to the information that was submitted with the facility's application for licensure under § 201.12(b)(1)—(6) (relating to application for license of a new facility or change in ownership).

(d) The governing body shall adopt effective administrative and resident care policies and bylaws governing the operation of the facility in accordance with legal requirements. The administrative and resident care policies and bylaws shall be in writing; shall be dated; and shall be reviewed and revised, in writing, as often as necessary but at least annually. The policies and bylaws shall be available upon request, to residents, resident representatives and for review by members of the public.

(d.1) The administrator appointed by the governing body under 42 CFR 483.70(d)(2) shall be currently licensed and registered in this Commonwealth and shall be employed full-time in facilities that have more than 25 beds. Facilities with 25 beds or less may share an administrator provided that all of the following apply:

(1) The Department is informed of this arrangement.

(2) There is a plan in the event of an emergency when the administrator is not working.

(3) There is a readily available method for residents and resident representatives to contact the administrator should they find it necessary.

(4) The director of nursing services has at a minimum, knowledge and experience of the facility, its policies and procedures and resident needs to compensate for the time the administrator is not in the building.

(5) The sharing of an administrator shall be limited to two facilities.

(d.2) The administrator's anticipated biweekly work schedule shall be publicly posted in the facility. The anticipated work schedule shall be updated within 24 hours of a change.

(e) In addition to the requirements under 49 Pa. Code § 39.91 (relating to standards of professional practice and professional conduct for nursing home administrators), the administrator's responsibilities shall include the following:

(1) Enforcing the regulations relative to the level of health care and safety of residents and to the protection of their personal and property rights.

(2) Planning, organizing and directing responsibilities obligated to the administrator by the governing body.

(2.1) Ensuring that a sanitary, orderly and comfortable environment is provided for residents through satisfactory housekeeping in the facility and maintenance of the building and grounds.

- (3) Maintaining an ongoing relationship with the governing body, medical and nursing staff and other professional and supervisory staff through meetings and reports, occurring as often as necessary, but at least on a monthly basis.
- (4) Studying and acting upon recommendations made by committees.
- (5) Appointing, in writing and in concurrence with the governing body, a responsible employee to act on the administrator's behalf during temporary absences.
- (6) Assuring that appropriate and adequate relief personnel are utilized for those necessary positions vacated either on a temporary or permanent basis.
- (7) Developing a written plan to assure the continuity of resident care and services in the event of a strike in a unionized facility.
- (f) A written record shall be maintained on a current basis for each resident with written receipts for personal possessions received or deposited with the facility. The record shall be available for review by the resident or resident representative upon request.
- (g) The governing body shall disclose, upon request, to be made available to the public, the licensee's current daily reimbursement under Medical Assistance and Medicare as well as the average daily charge to other insured and noninsured private pay residents.
- (h) When the facility accepts the responsibility for the resident's financial affairs, the resident or resident representative shall designate, in writing, the transfer of the responsibility. The facility shall provide cash, if requested, within 1 day of the request or a check, if requested, within 3 days of the request. If a facility utilizes electronic transfers, the facility shall initiate an electronic transfer of funds, if requested, within one day of the request.

Authority

The provisions of this § 201.18 amended under sections 102, 201(12), 601, 801.1 and 803 of the Health Care Facilities Act (35 P.S. §§ 448.102, 448.201(12), 448.601, 448.801a and 448.803); and section 2102(a) and (g) of The Administrative Code of 1929 (71 P.S. § 532(a) and (g)).

Source

The provisions of this § 201.18 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233; amended July 6, 1979, effective July 7, 1979, 9 Pa.B. 2252; amended April 23, 1982, effective April 24, 1982, 12 Pa.B. 1316; amended January 31, 1987, effective July 1, 1987, 17 Pa.B. 514; amended July 23, 1999, effective July 24, 1999, 29 Pa.B. 3999; amended December 23, 2022, effective July 1, 2023, 52 Pa.B. 8098. Immediately preceding text appears at serial pages (258327) to (258328) and (336941).

§ 201.19. Personnel records.

Personnel records shall be kept current and available for each facility employee and contain all of the following information:

- (1) The employee's job description, educational background and employment history.

- (2) Employee performance evaluations, including documentation of any monitoring, performance or disciplinary action related to the employee.
- (3) Documentation of credentials, which shall include, at a minimum, current certification, registration or licensure, if applicable, for the position to which the employee is assigned.
- (4) A determination by a health care practitioner that the employee, as of the employee's start date, is free from the communicable diseases or conditions listed in § 27.155 (relating to restrictions on health care practitioners).
- (5) Records relating to a medical exam, if required by a facility, or attestation that the employee is able to perform the employee's job duties.
- (6) Documentation of the employee's orientation to the facility and the employee's assigned position prior to or within 1 week of the employee's start date.
- (7) Documentation of the employee's completion of required trainings under this chapter, including documentation of orientation and other trainings.
- (8) A copy of the final report received from the Pennsylvania State Police and the Federal Bureau of Investigation, as applicable, in accordance with the Older Adults Protective Services Act (35 P.S. §§ 10225.101—10225.5102), the Adult Protective Services Act (35 P.S. §§ 10210.101—10210.704) and applicable regulations.
- (9) In the event of a conviction prior to or following employment, documentation that the facility determined the employee's suitability for initial or continued employment in the position to which the employee is assigned. "Suitability for employment" shall include a review of the offense; the length of time since the individual's conviction; the length of time since incarceration, if any; evidence of rehabilitation; work history; and the employee's job duties.
- (10) The employee's completed employment application.

Authority

The provisions of this § 201.19 amended under sections 102, 201(12), 601, 801.1 and 803 of the Health Care Facilities Act (35 P.S. §§ 448.102, 448.201(12), 448.601, 448.801a and 448.803); and section 2102(a) and (g) of The Administrative Code of 1929 (71 P.S. § 532(a) and (g)).

Source

The provisions of this § 201.19 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233; amended April 23, 1982, effective April 24, 1982, 12 Pa.B. 1316; amended January 31, 1987, effective July 1, 1987, 17 Pa.B. 514; amended July 23, 1999, effective July 24, 1999, 29 Pa.B. 3999; amended December 23, 2022, effective July 1, 2023, 52 Pa.B. 8098. Immediately preceding text appears at serial page (336941).

Notes of Decisions

Personnel Procedures

If the administrator of a county-operated nursing home adopts disciplinary and dismissal procedures and the county commissioners use those procedures to fulfill the requirements of State and Federal agencies and in the orientation of new employees, then the commissioners are estopped from

denying the validity of those procedures, even if the administrator acted beyond his authority in adopting them. *DeFrank v. County of Greene*, 412 A.2d 663 (Pa. Cmwlth. 1980).

§ 201.20. Staff development.

(a) There shall be an ongoing coordinated educational program which is planned and conducted for the development and improvement of skills of the facility's personnel, including, at a minimum, annual in-service training on the topics outlined in 42 CFR 483.95 (relating to training requirements) in addition to the following topics:

- (1) Accident prevention.
- (2) Restorative nursing techniques.
- (3) Emergency preparedness in accordance with 42 CFR 483.73(d) (relating to emergency preparedness).
- (4) Fire prevention and safety in accordance with 42 CFR 483.90 (relating to physical environment).
- (5) Resident rights, including nondiscrimination and cultural competency.
- (6) Training needs identified through a facility assessment.

(b) An employee shall receive appropriate orientation to the facility, its policies and to the position and duties. The orientation shall include training on the prevention, detection and reporting of resident abuse and dementia management and communication skills.

(c) [Reserved].

(d) Written records shall be maintained which indicate the content of and attendance at staff development programs.

Authority

The provisions of this § 201.20 amended under sections 102, 201(12), 601, 801.1 and 803 of the Health Care Facilities Act (35 P.S. §§ 448.102, 448.201(12), 448.601, 448.801a and 448.803); and section 2102(a) and (g) of The Administrative Code of 1929 (71 P.S. § 532(a) and (g)).

Source

The provisions of this § 201.20 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233; amended April 23, 1982, effective April 24, 1982, 12 Pa.B. 1316; amended January 31, 1987, effective July 1, 1987, 17 Pa.B. 514; amended July 23, 1999, effective July 24, 1999, 29 Pa.B. 3999; amended December 23, 2022, effective July 1, 2023, 52 Pa.B. 8098. Immediately preceding text appears at serial page (336942).

§ 201.21. Use of outside resources.

(a) [Reserved].

(b) [Reserved].

(c) In addition to the requirements under 42 CFR 483.70(g) (relating to administration), the responsibilities, functions, objectives and terms of agreements related to outside resources shall be delineated in writing and signed and dated by the parties.

(d) [Reserved].

(e) If a facility acquires employees from outside resources, the facility shall obtain confirmation from the outside resource that the employees are free from the communicable diseases and conditions listed in § 27.155 (relating to restrictions on health care practitioners) and are able to perform their assigned job duties.

Authority

The provisions of this § 201.21 amended under sections 102, 201(12), 601, 801.1 and 803 of the Health Care Facilities Act (35 P.S. §§ 448.102, 448.201(12), 448.601, 448.801a and 448.803); and section 2102(a) and (g) of The Administrative Code of 1929 (71 P.S. § 532(a) and (g)).

Source

The provisions of this § 201.21 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233; amended January 31, 1987, effective July 1, 1987, 17 Pa.B. 514; amended July 23, 1999, effective July 24, 1999, 29 Pa.B. 3999; amended December 23, 2022, effective July 1, 2023, 52 Pa.B. 8098. Immediately preceding text appears at serial pages (336942) and (258331).

§ 201.22. Prevention, control and surveillance of tuberculosis (TB).

(a) The facility shall have a written TB infection control plan with established protocols which address risk assessment and management, screening and surveillance methods, identification, evaluation, and treatment of residents and employees who have a possible TB infection or active TB.

(b) Recommendations of the Centers for Disease Control and Prevention (CDC), United States Department of Health and Human Services (HHS) shall be followed in screening, testing and surveillance for TB and in treating and managing persons with confirmed or suspected TB.

- (c) [Reserved].
- (d) [Reserved].
- (e) [Reserved].
- (f) [Reserved].
- (g) [Reserved].
- (h) [Reserved].
- (i) [Reserved].
- (j) [Reserved].
- (k) [Reserved].
- (l) [Reserved].
- (m) [Reserved].
- (n) [Reserved].

Authority

The provisions of this § 201.22 amended under sections 102, 201(12), 601, 801.1 and 803 of the Health Care Facilities Act (35 P.S. §§ 448.102, 448.201(12), 448.601, 448.801a and 448.803); and section 2102(a) and (g) of The Administrative Code of 1929 (71 P.S. § 532(a) and (g)).

Source

The provisions of this § 201.22 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233; amended January 31, 1987, effective July 1, 1987, 17 Pa.B. 514; amended July 23, 1999, effective July 24, 1999, 29 Pa.B. 3999; amended December 23, 2022, effective July 1, 2023, 52 Pa.B. 8163. Immediately preceding text appears at serial pages (258331) to (258332).

§ 201.23. Closure of facility.

In addition to the requirements set forth in 42 CFR 483.70(l) and (m) (relating to administration), the following conditions apply to the closure of a long-term care nursing facility:

- (a) [Reserved].
- (b) [Reserved].
- (c) [Reserved].
- (c.1) The facility shall develop a closure plan that includes all of the following:
 - (1) The identification of those who will be responsible for the daily operation and management of the facility during the closure process.
 - (2) The roles and responsibilities, and contact information, for the facility owner and the administrator or any replacement or temporary manager during the closure process.
 - (3) Assurance that no new residents will be admitted to the facility after the written notice of closure is provided under subsection (c.3).
 - (4) A plan for identifying and assessing available facilities to which residents can be transferred, taking into consideration each resident's individual best interests and resident's goals, preferences and needs regarding services, location and setting. This shall include all of the following:
 - (i) Interviewing each resident and resident representative, if applicable, to determine each resident's goals, preferences and needs.
 - (ii) Offering the opportunity, to each resident and resident representative, if applicable, to obtain information regarding options within the community.
 - (iii) Providing residents and resident representatives, if applicable, with information or access to information regarding providers and services.
 - (5) A plan for the communication and transfer of resident information, including of medical records.
 - (6) Provisions for the ongoing operations and management of the facility, its residents and staff during the closure process, that include all of the following:
 - (i) Payment of salaries and expenses.
 - (ii) Continuation of appropriate staffing and resources to meet the needs of the residents, including provision of medications, services, supplies and treatment.

- (iii) Ongoing accounting, maintenance and reporting of resident personal funds.
 - (iv) Labeling, safekeeping and appropriate transfer of each resident's personal belongings.
- (c.2) The facility shall provide the notice of closure and the closure plan developed under subsection (c.1) to the Department for approval at least 75 days prior to the proposed date of closure.
- (c.3) At least 60 days before the proposed date of closure, the facility shall provide written notice of the proposed closure to the following:
- (1) Residents and their resident representatives, if applicable, in writing or in a language and manner they understand.
 - (2) Employees of the facility.
 - (3) The Office of the State Long-Term Care Ombudsman Program.
 - (4) The Department of Human Services.
- (c.4) The written notice provided under subsections (c.2) and (c.3) shall contain all of the following:
- (1) The date of the proposed closure.
 - (2) Contact information for the facility representative delegated to respond to questions about the closure.
 - (3) Contact information for the Office of the State Long-Term Care Ombudsman Program.
 - (4) The transfer and relocation plan of residents.
- (d) Residents in a facility may not be required to leave the facility prior to 30 days following receipt of a written notice from the licensee of the intent to close the facility, except when the Department determines that removal of the resident at an earlier time is necessary for health and safety.
- (e) If an orderly transfer of the residents cannot be safely effected within 30 days, the Department may require the facility to remain open an additional 30 days.
- (f) The Department is permitted to monitor the transfer of residents.
- (g) The licensee of a facility shall file proof of financial responsibility with the Department to ensure that the facility continues to operate in a satisfactory manner until closure of the facility.

Authority

The provisions of this § 201.23 amended under sections 102, 201(12), 601, 801.1 and 803 of the Health Care Facilities Act (35 P.S. §§ 448.102, 448.201(12), 448.601, 448.801a and 448.803); and section 2102(a) and (g) of The Administrative Code of 1929 (71 P.S. § 532(a) and (g)).

Source

The provisions of this § 201.23 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233; amended May 26, 1978, effective May 27, 1978, 8 Pa.B. 1466; amended July 6, 1979, effective July 7, 1979, 9 Pa.B. 2252; amended April 23, 1982, effective April 24, 1982, 12 Pa.B. 1316; amended January 31, 1987, effective July 1, 1987, 17 Pa.B. 514; amended July 23, 1999, effective

July 24, 1999, 29 Pa.B. 3999; amended December 23, 2022, effective July 1, 2023, 52 Pa.B. 8065. Immediately preceding text appears at serial page (336943).

Cross References

This section cited in 28 Pa. Code § 211.5 (relating to medical records).

§ 201.24. Admission policy.

(a) The resident is not required to name a resident representative if the resident is capable of managing the resident's own affairs.

(b) A facility may not obtain from or on behalf of residents a release from liabilities or duties imposed by law or this subpart except as part of formal settlement in litigation.

(c) A facility shall admit only residents whose nursing care and physical needs can be provided by the staff and facility.

(d) A resident with a disease in the communicable stage may not be admitted to the facility unless it is deemed advisable by the attending physician—medical director, if applicable—and administrator and unless the facility has the capability to care for the needs of the resident.

(e) The governing body of a facility shall establish written policies for the admissions process for residents, and through the administrator, shall be responsible for the development of and adherence to procedures implementing the policies. The policies and procedures shall include all of the following:

(1) Introduction of residents to at least one member of the professional nursing staff for the unit where the resident will be living and to direct care staff who have been assigned to care for the resident. Prior to introductions, the professional nursing and direct care staff shall review the orders of the physician or other health care practitioner for the resident's immediate care.

(2) Orientation of the resident to the facility and location of essential services and key personnel, including the dining room, nurses' workstations and offices for the facility's social worker and grievance or complaint officer.

(3) A description of facility routines, including nursing shifts, mealtimes and posting of menus.

(4) Discussion and documentation of the resident's customary routines and preferences, to be included in the care plan developed for the resident under 42 CFR 483.21 (relating to comprehensive person-centered care planning).

(5) Assistance to the resident in creating a homelike environment and settling and securing personal possessions in the room to which the resident has been assigned.

(f) The coordination of introductions, orientation and discussions, under subsection (e), shall be the responsibility of the facility's social worker, or a designee designated by the governing body. The activities included under subsection (e)(1) and (2) shall occur within 2 hours of a resident's admission. The activities included under subsection (e)(3) and (4) shall occur within 24 hours of a resi-

dent's admission. the activities included under subsection (e)(5) shall occur within 72 hours of a resident's admission.

Authority

The provisions of this § 201.24 amended under sections 102, 201(12), 601, 801.1 and 803 of the Health Care Facilities Act (35 P.S. §§ 448.102, 448.201(12), 448.601, 448.801a and 448.803); and section 2102(a) and (g) of The Administrative Code of 1929 (71 P.S. § 532(a) and (g)).

Source

The provisions of this § 201.24 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233; amended February 11, 1977, effective February 12, 1977, 7 Pa.B. 437; amended May 26, 1978, effective May 27, 1978, 8 Pa.B. 1466; amended April 23, 1982, effective April 24, 1982, 12 Pa.B. 1316; amended January 31, 1987, effective July 1, 1987, 17 Pa.B. 514; amended July 23, 1999, effective July 24, 1999, 29 Pa.B. 3999; amended December 23, 2022, effective July 1, 2023, 52 Pa.B. 8098. Immediately preceding text appears at serial pages (336943) to (336944).

§ 201.25. [Reserved].

Authority

The provisions of this § 201.25 deleted under sections 102, 201(12), 601, 801.1 and 803 of the Health Care Facilities Act (35 P.S. §§ 448.102, 448.201(12), 448.601, 448.801a and 448.803); and section 2102(a) and (g) of The Administrative Code of 1929 (71 P.S. § 532(a) and (g)).

Source

The provisions of this § 201.25 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233; amended January 31, 1987, effective July 1, 1987, 17 Pa.B. 514; amended July 23, 1999, effective July 24, 1999, 29 Pa.B. 3999; deleted December 23, 2022, effective July 1, 2023, 52 Pa.B. 8098. Immediately preceding text appears at serial page (336944).

§ 201.26. Resident representative.

A resident representative may not be a licensee, owner, operator, members of the governing body, an employee or anyone with a financial interest in the facility unless ordered by a court of competent jurisdiction, except that:

- (1) A resident's family member who is employed in the facility may serve as a resident representative so long as there is no conflict of interest.
- (2) A facility may be designated as a representative payee in accordance with Title II or XVI of the Social Security Act (42 U.S.C.A. §§ 401—434 and 1381—1385) and applicable regulations.

Authority

The provisions of this § 201.26 amended under sections 102, 201(12), 601, 801.1 and 803 of the Health Care Facilities Act (35 P.S. §§ 448.102, 448.201(12), 448.601, 448.801a and 448.803); and section 2102(a) and (g) of The Administrative Code of 1929 (71 P.S. § 532(a) and (g)).

Source

The provisions of this § 201.26 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233; amended January 31, 1987, effective July 1, 1987, 17 Pa.B. 514; amended July 23, 1999, effective July 24, 1999, 29 Pa.B. 3999; amended December 23, 2022, effective July 1, 2023, 52 Pa.B. 8098. Immediately preceding text appears at serial page (336944).

§ 201.27. Advertisement of special services.

A facility may not advertise special services offered unless the service is under the direction and supervision of personnel trained or educated in that particular special service, such as, rehabilitation or physical therapy by a registered physical therapist; occupational therapy by a registered occupational therapist; skilled nursing care by registered nurses; special diets by a dietitian; or special foods.

Authority

The provisions of this § 201.27 amended under section 803 of the Health Care Facilities Act (35 P. S. § 448.803); and section 2102(g) of The Administrative Code of 1929 (71 P. S. § 532(g)).

Source

The provisions of this § 201.27 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233; amended January 31, 1987, effective July 1, 1987, 17 Pa.B. 514; amended July 23, 1999, effective July 24, 1999, 29 Pa.B. 3999. Immediately preceding text appears at serial page (202331).

§ 201.28. [Reserved].**Source**

The provisions of this § 201.28 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233; amended July 6, 1979, effective July 7, 1979, 7 Pa.B. 2252; amended January 31, 1987, effective July 1, 1987, 17 Pa.B. 514; reserved July 23, 1999, effective July 24, 1999, 29 Pa.B. 3999. Immediately preceding text appears at serial pages (202331) to (202333).

§ 201.29. Resident rights.

(a) The governing body of the facility shall establish written policies regarding the rights and responsibilities of residents as provided for in 42 CFR 483.10 (relating to resident rights) and this section. Through the administrator, the governing body shall be responsible for development of and adherence to procedures implementing the policies. The written policies shall include a mechanism for the inclusion of residents, or a resident representative, in the development, implementation and review of the policies and procedures regarding the rights and responsibilities of residents.

(b) Policies and procedures regarding rights and responsibilities of residents shall be available to residents and members of the public.

(c) Policies of the facility shall be available to staff, residents, consumer groups and the interested public, including a written outline of the facility's objectives and a statement of the rights of its residents. The policies shall set forth the rights of the resident and prohibit mistreatment and abuse of the resident.

(c.1) The facility shall post in a conspicuous place near the entrances and on each floor of the facility a notice which sets forth the list of resident rights. The posting of resident rights shall include the rights under subsection (c.3) and 42 CFR 483.10.

(c.2) A facility shall provide personal notice of a resident's rights in accordance with 42 CFR 483.10(g)(16). A certificate of the provision of personal notice shall be entered in the resident's medical record.

(c.3) In addition to the resident rights set forth in 42 CFR 483.10, residents have a right to the following:

(1) If changes in charges occur during the resident's stay, the resident, or resident representative, shall be advised verbally and in writing reasonably in advance of the change. "Reasonably in advance" shall be interpreted to be 30 days prior to the change unless circumstances dictate otherwise. If a facility requires a security deposit, the written procedure or contract that is given to the resident, or resident representative, shall indicate how the deposit will be used and the terms for the return of the deposit. A security deposit is not permitted for a resident receiving medical assistance.

(2) Prior to transfer, the facility shall inform the resident, or the resident representative, as to whether the facility where the resident is being transferred is certified to participate in the Medicare and the Medical Assistance Programs.

(3) Experimental research or treatment in a facility may not be carried out without the approval of the Department, including the Department's Institutional Review Board, and without the written approval and informed consent of the resident, or resident representative, obtained prior to participation and initiation of the experimental research or treatment. The following apply:

(i) The resident, or resident representative, shall be fully informed of the nature of the experimental research or treatment and the possible consequences, if any, of participation.

(ii) The resident, or resident representative, shall be given the opportunity to refuse to participate both before and during the experimental research or treatment.

(iii) For the purposes of this subsection, "experimental research" means the development, testing and use of a clinical treatment, such as an investigational drug or therapy that has not yet been approved by the United States Food and Drug Administration or medical community as effective and conforming to medical practice.

(4) A resident has the right to care without discrimination based upon race, color, familial status, religious creed, ancestry, age, sex, gender, sexual orientation, gender identity or expression, national origin, ability to pay, handicap or disability, use of guide or support animals because of the blindness, deafness or physical handicap of the resident or because the resident is a handler or trainer of support or guide animals.

(d) [Reserved].

(e) [Reserved].

(f) [Reserved].

(g) [Reserved].

(h) [Reserved].

- (i) [Reserved].
- (j) [Reserved].
- (k) [Reserved].
- (l) [Reserved].
- (m) [Reserved].
- (n) [Reserved].
- (o) [Reserved].

Authority

The provisions of this § 201.29 amended under sections 102, 201(12), 601, 801.1 and 803 of the Health Care Facilities Act (35 P.S. §§ 448.102, 448.201(12), 448.601, 448.801a and 448.803); and section 2102(a) and (g) of The Administrative Code of 1929 (71 P.S. § 532(a) and (g)).

Source

The provisions of this § 201.29 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233; amended July 6, 1979, effective July 7, 1979, 9 Pa.B. 2252; amended April 23, 1982, 12 Pa.B. 1316; amended January 31, 1987, effective July 1, 1987, 17 Pa.B. 514; corrected June 19, 1987, 17 Pa.B. 2462; amended July 23, 1999, effective July 24, 1999, 29 Pa.B. 3999; amended December 23, 2022, effective July 1, 2023, 52 Pa.B. 8098. Immediately preceding text appears at serial pages (258335) to (258336) and (336945).

§ 201.30. [Reserved].**Source**

The provisions of this § 201.30 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233; amended January 31, 1987, effective July 1, 1987, 17 Pa.B. 514; amended July 23, 1999, effective July 24, 1999, 29 Pa.B. 3999; deleted December 23, 2022, effective July 1, 2023, 52 Pa.B. 8098. Immediately preceding text appears at serial page (336946).

§ 201.31. Transfer agreement.

(a) The facility shall have in effect a transfer agreement with one or more hospitals, located reasonably close by, which provides the basis for effective working arrangements between the two health care facilities. Under the agreement, inpatient hospital care or other hospital services shall be promptly available to the facility's residents when needed.

(b) A transfer agreement between a hospital and a facility shall be in writing and specifically provide for the exchange of medical and other information necessary to the appropriate care and treatment of the residents to be transferred. The agreement shall further provide for the transfer of residents' personal effects, particularly money and valuables, as well as the transfer of information related to these items when necessary.

Authority

The provisions of this § 201.31 amended under sections 102, 201(12), 601, 801.1 and 803 of the Health Care Facilities Act (35 P.S. §§ 448.102, 448.201(12), 448.601, 448.801a and 448.803); and section 2102(a) and (g) of The Administrative Code of 1929 (71 P.S. § 532(a) and (g)).

Source

The provisions of this § 201.31 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233; amended January 31, 1987, effective July 1, 1987, 17 Pa.B. 514; amended July 23, 1999, effective July 24, 1999, 29 Pa.B. 3999; amended December 23, 2022, effective July 1, 2023, 52 Pa.B. 8098. Immediately preceding text appears at serial pages (336946) and (258339).

§ 201.32. [Reserved].**Source**

The provisions of this § 201.32 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233; amended January 31, 1987, effective July 1, 1987, 17 Pa.B. 514; reserved July 23, 1999, effective July 24, 1999, 29 Pa.B. 3999. Immediately preceding text appears at serial page (202339).

§ 201.33. [Reserved].**Source**

The provisions of this § 201.33 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233; amended April 23, 1982, effective April 24, 1982, 12 Pa.B. 1316; reserved January 31, 1987, effective July 1, 1987, 17 Pa.B. 514. Immediately preceding text appears at serial pages (70649) to (70650).

§ 201.34. [Reserved].**Source**

The provisions of this § 201.34 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233; amended February 11, 1977, effective February 12, 1977, 7 Pa.B. 437; amended July 6, 1979, effective July 7, 1979, 9 Pa.B. 2252; amended April 23, 1982, effective April 24, 1982, 12 Pa.B. 1316; corrected at 12 Pa.B. 1563; reserved January 31, 1987, effective July 1, 1987, 17 Pa.B. 514. Immediately preceding text appears at serial pages (70651) to (70653).

§ 201.35. [Reserved].**Source**

The provisions of this § 201.35 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233; amended April 23, 1982, effective April 24, 1982, 12 Pa.B. 1316; reserved January 31, 1987, effective July 1, 1987, 17 Pa.B. 514. Immediately preceding text appears at serial pages (70653) to (70655).

§ 201.36. [Reserved].**Source**

The provisions of this § 201.36 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233; amended July 6, 1979, effective July 7, 1979, 9 Pa.B. 2252; reserved January 31, 1987, effective July 1, 1987, 17 Pa.B. 514. Immediately preceding text appears at serial pages (70655) to (70656).

§ 201.37. [Reserved].

Source

The provisions of this § 201.37 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233; reserved January 31, 1987, effective July 1, 1987, 17 Pa.B. 514. Immediately preceding text appears at serial page (70656).

§ 201.38. [Reserved].

Source

The provisions of this § 201.38 adopted August 29, 1975, effective September 1, 1975, 5 Pa.B. 2233; reserved January 31, 1987, effective July 1, 1987, 17 Pa.B. 514. Immediately preceding text appears at serial pages (70656) to (70657).

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