

**CHAPTER 553. OWNERSHIP, GOVERNANCE
AND MANAGEMENT**

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Authority

The provisions of this Chapter 553 issued under Chapter 8 of the Health Care Facilities Act (35 P. S. §§ 448.801a—448.820), specifically sections 448.801a and 448.803; and section 2102(a) and (g) of The Administrative Code of 1929 (71 P. S. § 532(a) and (g)), unless otherwise noted.

Source

The provisions of this Chapter 553 adopted January 23, 1987, effective March 25, 1987, 17 Pa.B. 376, unless otherwise noted.

Cross References

This chapter cited in 28 Pa. Code § 551.54 (relating to access by the Department).

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GOVERNING BODY**§ 553.1. Principle.**

There shall be an organized governing body or designated person vested with ownership who shall assume the full legal authority and responsibility for the conduct of the ASF.

§ 553.2. Ownership.

- (a) The owner of the ASF may be an individual, partnership, association, a corporation or a combination thereof.
- (b) A complete list of the names and addresses of owners, directors, officers and managers shall be submitted with the application.
- (c) Owners shall be considered any person who has a direct or indirect equity interest in the facility of 5% or more, including shareholders and partners.
- (d) A physically noncontiguous branch of the ASF shall meet the requirements for licensure and shall be independently licensed.

Source

The provisions of this § 553.2 amended October 22, 1999, effective November 22, 1999, 29 Pa.B. 5583. Immediately preceding text appears at serial page (247506).

§ 553.3. Governing body responsibilities.

Governing body responsibilities include:

- (1) Conforming to applicable Federal, State and local law.
- (2) Determining the goals and objectives of the ASF.
- (3) Assuring that facilities and personnel are adequate and appropriate to carry out the goals and objectives.
- (4) Establishing an organizational structure and specifying functional relationships among the various components of the ASF.
- (5) Adopting bylaws or similar rules and regulations for the orderly development and management of the ASF, which:
 - (i) Describe the authority delegated to the person in charge and to the medical staff.
 - (ii) Require the governing body to review and approve the bylaws, or similar rules and regulations, of the medical staff.
- (6) Adopting policies or procedures necessary for the orderly conduct of the ASF.
- (7) Assuring that the quality of care is evaluated and that identified problems are appropriately addressed.
- (8) Establishing personnel policies and practices which adequately support sound patient care to include the following:

- (i) Require the employment of personnel with qualifications commensurate with a job's responsibilities and authority, including appropriate licensure and certification.
- (ii) Applicants for positions requiring a licensed person shall be hired only after obtaining verification of their licenses, records of education and written references.
- (iii) Personnel records shall include current information relative to periodic work performance evaluations.
- (iv) Compliance with Occupational Safety and Health Administration (OSHA) Universal Precautions for prevention of transmission of diseases.
- (v) Written job descriptions shall exist for each type of job in the ASF.
- (vi) Compliance with Federal and State regulations including, The Americans with Disabilities Act of 1990 (42 U.S.C.A. §§ 12101—12213), civil rights and OSHA regulations.
- (9) Reviewing legal and ethical matters concerning the ASF including the reports and disposition of unusual incidents.
- (10) Maintaining effective communication throughout the ASF.
- (11) Establishing a system of financial management and accountability that includes an audit appropriate for the ASF.
- (12) Establishing a procedure for implementing, disseminating and enforcing a patient's bill of rights in compliance with § 553.13 (relating to procedures for distribution).
- (13) Approving major contracts or arrangements affecting the medical care provided under its auspices, including those concerning:
 - (i) The employment for contractual arrangements with practitioners and others providing direct patient care.
 - (ii) The provision of all treatment related services including, radiology, medical laboratory, pathology, anesthesia and pharmaceutical services.
 - (iii) The provision of care by other health care organizations.
 - (iv) The provision of education to students and postgraduate trainees.
- (14) Formulating long-range plans in accordance with the goals and objectives of the ASF.
- (15) Operating the ASF without limitation because of age, race, creed, color, sex, national origin, religion, handicap or disability.
- (16) Assuring that at least one medical professional in the facility when patients are present is currently and on an ongoing basis certified in advanced cardiac life support, or its successor. If a pediatric patient is present in the facility, the certification of the medical professional shall be in advanced pediatric life support as defined in § 551.22(4) (relating to criteria for performance of ambulatory surgery on pediatric patients).

Source

The provisions of this § 553.3 adopted January 23, 1987, effective March 25, 1987, 17 Pa.B. 376; amended July 21, 1989, effective July 22, 1989, 19 Pa.B. 3105; amended October 22, 1999, effective November 22, 1999, 29 Pa.B. 5583. Immediately preceding text appears at serial pages (247506) to (247508).

§ 553.4. Other functions.

(a) The governing body shall meet at least annually and keep minutes or other records necessary for the orderly conduct of the ASF.

(b) If the governing body elects, appoints or employs officers and administrators to carry out its directives, the authority, responsibility and functions of the positions shall be defined.

(c) If the governing body is comprised of two or more members, and if the majority of those members are practitioners, the governing body, either directly or by delegation, shall make—based on evidence of the education, training and current competence—initial appointments, reappointments and assignment or curtailment of clinical privileges of the practitioners.

(d) If the governing body is comprised of only one member, or if a majority of the members of the governing body are not practitioners, the ASF bylaws or similar rules and regulations shall specify a procedure for establishing medical review by practitioners for the purpose of recommending to the governing body for its approval based on evidence of the education, training and current competence—initial appointments, reappointments and assignment or curtailment of clinical privileges of the practitioners.

(e) If students and postgraduate trainees are present in the facility, their role and functions shall be defined.

(f) The governing body shall ensure that personnel are provided with continuing education which is relevant to their responsibilities within the organization.

(g) The governing body shall ensure that the licensee provides to the Department, the documents under § 551.53 (relating to presurvey preparation).

(h) The governing body shall appoint a medical director who shall be board certified by an American Board of Medical Specialties recognized board or the dental, podiatric or osteopathic equivalent. The governing body may appoint an interim director during the period of time between the departure of a director and the selection of a new director.

(1) The interim director shall be a physician who is able to demonstrate qualifications acceptable to the medical staff of the ASF and to the Department.

(2) If the interim director is not board certified, the Department will specify the maximum period of time for which the interim director may serve.

Source

The provisions of this § 553.4 amended October 22, 1999, effective November 22, 1999, 29 Pa.B. 5583. Immediately preceding text appears at serial page (247508).

Cross References

This section cited in 28 Pa. Code § 551.3 (relating to definitions).

PATIENT'S BILL OF RIGHTS

§ 553.11. Purpose.

The purpose of §§ 553.11—553.13 (relating to patient's bill of rights) is to promote the interests and well-being of the patients of ambulatory surgical facilities subject to this subpart even in those instances where the interests of the patients may be in opposition to the interests of the ASF. It is the policy of the Department that the interests of patients be protected by a patient's bill of rights. Nothing in §§ 553.11—553.13 is intended to serve as evidence of a standard of reasonable conduct for the purpose of determining civil liability between providers and consumers of health services. The ASF has the right to expect the patient to fulfill patient responsibilities as may be stated in the ASF's rules affecting patient care and conduct.

§ 553.12. Implementation.

(a) The ASF governing body shall establish a patient's bill of rights not less in substance and coverage than the minimal patient's bill of rights provided by subsection (b).

(b) The following are minimal provisions for the patient's bill of rights:

- (1) A patient has the right to respectful care given by competent personnel.
- (2) A patient has the right, upon request, to be given the name of his attending practitioner, the names of all other practitioners directly participating in his care and the names and functions of other health care persons having direct contact with the patient.
- (3) A patient has the right to consideration of privacy concerning his own medical care program. Case discussion, consultation, examination and treatment are considered confidential and shall be conducted discreetly.
- (4) A patient has the right to have records pertaining to his medical care treated as confidential except as otherwise provided by law or third party contractual arrangements.
- (5) A patient has the right to know what ASF rules and regulations apply to his conduct as a patient.
- (6) The patient has the right to expect emergency procedures to be implemented without unnecessary delay.
- (7) The patient has the right to good quality care and high professional standards that are continually maintained and reviewed.
- (8) The patient has the right to full information in layman's terms, concerning diagnosis, treatment and prognosis, including information about alternative

treatments and possible complications. When it is not medically advisable to give the information to the patient, the information shall be given on his behalf to the responsible person.

(9) Except for emergencies, the practitioner shall obtain the necessary informed consent prior to the start of a procedure. Informed consent is defined in section 103 of the Health Care Services Malpractice Act (40 P. S. § 1301.103).

(10) A patient or, if the patient is unable to give informed consent, a responsible person, has the right to be advised when a practitioner is considering the patient as a part of a medical care research program or donor program, and the patient, or responsible person, shall give informed consent prior to actual participation in the program. A patient, or responsible person, may refuse to continue in a program to which he has previously given informed consent.

(11) A patient has the right to refuse drugs or procedures, to the extent permitted by statute, and a practitioner shall inform the patient of the medical consequences of the patient's refusal of drugs or procedures.

(12) A patient has the right to medical and nursing services without discrimination based upon age, race, color, religion, sex, national origin, handicap, disability or source of payment.

(13) The patient who does not speak English shall have access, where possible, to an interpreter.

(14) The ASF shall provide the patient, or patient designee, upon request, access to the information contained in his medical records, unless access is specifically restricted by the attending practitioner for medical reasons.

(15) The patient has the right to expect good management techniques to be implemented within the ASF. These techniques shall make effective use of the time of the patient and avoid the personal discomfort of the patient.

(16) When an emergency occurs and a patient is transferred to another facility, the responsible person shall be notified. The institution to which the patient is to be transferred shall be notified prior to the patient's transfer.

(17) The patient has the right to examine and receive a detailed explanation of his bill.

(18) A patient has the right to expect that the ASF will provide information for continuing health care requirements following discharge and the means for meeting them.

(19) A patient has the right to be informed of his rights at the time of admission.

Cross References

This section cited in 28 Pa. Code § 553.11 (relating to purpose).

§ 553.13. Procedures for distribution.

The ASF shall develop procedures to inform each patient of his rights. Copies of the ASF's patient's bill of rights shall be made generally available through one of the following ways:

- (1) Prominent displays in appropriate locations in addition to copies available upon request.
- (2) Provision of a copy to each patient or responsible party upon admission.

Cross References

This section cited in 28 Pa. Code § 553.3 (relating to governing body responsibilities); and 28 Pa. Code § 553.11 (relating to purpose).

ADMISSION, TRANSFER AND DISCHARGE

§ 553.21. Principle.

- (a) The ASF shall have written policies for the admission, discharge, transfer and proper referral of patients.
- (b) The ASF may not provide beds or other accommodations for an overnight stay of patients.
- (c) A patient shall be discharged in a conscious and coherent condition and able to maintain vital life functions or shall be transferred to a hospital.
- (d) A patient shall be discharged only with appropriate discharge instructions under § 555.24 (relating to postoperative care).

Source

The provisions of this § 553.21 amended October 22, 1999, effective November 22, 1999, 29 Pa.B. 5583. Immediately preceding text appears at serial page (247511).

§ 553.22. Admission criteria.

The governing body, with the advice of and in conjunction with the medical staff, shall establish medical criteria for admissions under § 555.22(a) (relating to preoperative care). Medical criteria shall be congruent with the assigned ASF class level stated on the facility license.

Source

The provisions of this § 553.22 amended October 22, 1999, effective November 22, 1999, 29 Pa.B. 5583. Immediately preceding text appears at serial page (247511).

§ 553.23. Discharge by transfer.

A patient may not be transferred to another medical facility unless prior arrangements for admission have been made. Clinical records of sufficient content to insure continuity of care shall accompany the patient.

§ 553.24. Discharge of a minor or incompetent patient.

An individual who cannot legally consent to his own care shall be discharged only to the custody of parents, legal guardian, person standing in loco parentis or another responsible party unless otherwise directed by the parent or guardian or court of competent jurisdiction. If the parent or guardian directs that discharge be made otherwise, he shall so state in writing, and the statement shall become a part of the permanent medical record of the patient.

§ 553.25. Discharge criteria.

A patient may only be discharged from an ASF if the following physical status criteria are met:

- (1) *Vital signs.* Blood pressure, heart rate, temperature and respiratory rate are within the normal range for the patient's age or at preoperative levels for that patient.
- (2) *Activity.* The patient has regained preoperative mobility without assistance or syncope, or function at the patient's usual level considering limitations imposed by the surgical procedure.
- (3) *Mental status.* The patient is awake, alert or functions at the patient's preoperative mental status.
- (4) *Pain.* The patient's pain can be effectively controlled with medication.
- (5) *Bleeding.* Bleeding is controlled and consistent with that expected from the surgical procedure.
- (6) *Nausea/vomiting.* Minimal nausea or vomiting is controlled and consistent with that expected from the surgical procedure.

Source

The provisions of this § 553.25 adopted October 22, 1999, effective November 22, 1999, 29 Pa.B. 5583.

MANAGEMENT AND ADMINISTRATION OF OPERATIONS**§ 553.31. Administrative responsibilities.**

(a) A full time person in charge shall be appointed who has authority and responsibility for the operation of the ASF at all times. Qualifications, authority, responsibilities and duties of the person in charge shall be defined in a written statement adopted by the governing body.

(b) Administrative policies, procedures and controls shall be established, documented and implemented to assure the orderly and efficient management of the ASF.

Source

The provisions of this § 553.31 amended October 22, 1999, effective November 22, 1999, 29 Pa.B. 5583. Immediately preceding text appears at serial pages (247511) to (247512).

[Next page is 555-1.]