

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); and 31 Pa. Code § 244.3 (relating to standards for institutional plan of risk management for hospitals and nursing homes).

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 profit and nonprofit long-term care nursing facilities which provide either skilled nursing care or intermediate nursing care, or both, within the facilities under the act.

Authority

The provisions of this § 201.1 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 § 201.1 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. Immediately preceding text appears at serial page (245702).

§ 201.2. Requirements.

The Department incorporates by reference Subpart B of the Federal requirements for long-term care facilities, 42 CFR 483.1—483.75 (relating to requirements for long-term care facilities) revised as of October 1, 1998, as licensing regulations for long-term care nursing facilities with the exception of the following sections and subsections:

- (1) Section 483.1 (relating to basis and scope).
- (2) Section 483.5 (relating to definitions).
- (3) Section 483.10(b)(10), (c)(7) and (8) and (o) (relating to level A requirement: Resident rights).
- (4) Section 483.12(a)(1), (b), (c)(1) and (d)(1) and (3) (relating to admission, transfer and discharge rights).
- (5) Section 483.20(j) and (m) (relating to resident assessment).
- (6) Section 483.30(b)—(d) (relating to nursing services).
- (7) Section 483.40(e) and (f) (relating to physician services).
- (8) Section 483.55 (relating to dental services).
- (9) Section 483.70(d)(1)(v) and (3) (relating to physical environment).
- (10) Section 483.75(e)(1), (h) and (p) (relating to administration).

Authority

The provisions of this § 201.2 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 § 201.2 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. Immediately preceding text appears at serial pages (245702) and (202309).

§ 201.3. Definitions.

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

Abuse—The infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm or pain or mental anguish, or deprivation by an individual, including a caretaker, of goods or services that are necessary to attain or maintain physical, mental and psychosocial well-being. This presumes that instances of abuse of all residents, even those in a coma, cause physical harm, or pain or mental anguish. The term includes the following:

- (i) *Verbal abuse*—Any 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:
 - (A) Threats of harm.
 - (B) Saying things to frighten a resident, such as telling a resident that the resident will never be able to see his family again.
- (ii) *Sexual abuse*—Includes sexual harassment, sexual coercion or sexual assault.
- (iii) *Physical abuse*—Includes hitting, slapping, pinching and kicking. The term also includes controlling behavior through corporal punishment.

(iv) *Mental abuse*—Includes humiliation, harassment, threats of punishment or deprivation.

(v) *Involuntary seclusion*—Separation of a resident from other residents or from his room or confinement to his room (with/without roommates) against the resident's will, or the will of the resident's legal representative. Emergency or short term monitored separation from other residents will not be considered involuntary seclusion and may be permitted if used 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.

(vi) *Neglect*—The deprivation by a caretaker of goods or services which are necessary to maintain physical or mental health.

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

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

Administrator—An individual who is charged with the general administration of a facility, whether or not the individual has an ownership interest in the facility and whether or not the individual's functions and duties are shared with one or more other individuals. 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).

Alteration—An addition, modification or modernization in the structure or usage of a building or section thereof or change in the services rendered.

Ambulatory resident—An individual who is physically and mentally capable of getting in and out of bed and walking a normal path to safety in a reasonable period of time, including the ascent and descent of stairs without the aid of another person.

Audiologist—A person licensed as an audiologist by the Pennsylvania State Board of Examiners in Speech-Language and Hearing, or excluded from the requirement of licensure under the Speech-Language and Hearing Licensure Act (63 P. S. §§ 1701—1719).

Authorized person to administer drugs and medications—Persons qualified to administer drugs and 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) A registered nurse.

(ii) A registered nurse licensed by another state as a registered nurse 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) A practical nurse who is a graduate of a Commonwealth recognized school of practical nursing or who has 2 years of appropriate experience following licensure by waiver as a practical nurse.

(iv) A practical nurse shall be designated by the facility as a charge nurse only on the night tour of duty in a facility with a census of 59 or less.

Clinical laboratory—A place, establishment or institution, organized and operated primarily for the performance of bacteriological, biochemical, hematological, microscopical, serological or parasitological or other tests by the practical application of one or more of the fundamental sciences to material

originating from the human body, by the use of specialized apparatus, equipment and methods, for the purpose of obtaining scientific data which may be used as an aid to ascertain the state of health. The tests are conducted using specialized apparatus, equipment and methods, for the purpose of obtaining scientific data which may be used as an aid to ascertain the state of health.

Clinical records—Facility records, whether or not automated, pertaining to a resident, including medical records.

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 patient's sleeping quarters.

Department—The Department of Health of the Commonwealth.

Dietetic service supervisor—A person who meets one of the following requirements:

- (i) Is a dietitian.
- (ii) Is a graduate of a dietetic technician or dietetic assistant training program, correspondence course or classroom course approved by the American Dietetic Association.
- (iii) Is a member of the American Dietetic Association or the Dietary Managers Association.
- (iv) Is a graduate of a State approved course that provided 90 or more hours of classroom instruction in food service supervision and has experience as a supervisor in a health care institution with consultation from a dietitian.
- (v) Has training and experience in food service supervision and management in a military service equivalent in content to the program in subparagraph (iv).
- (vi) Has a baccalaureate degree from a State approved or accredited college or university and has at least 12 credit hours in food service, nutrition or diet therapy and at least 1 year of supervisory experience in the dietary department of a health care facility.

Dietitian—A person who is either:

- (i) Registered by the Commission on Dietetic Registration of the American Dietetic Association.
- (ii) Eligible for registration and who has a minimum of a bachelor's degree from a United States regionally accredited college or university and has completed the American Dietetic Association (ADA) approved dietetic course requirements and the requisite number of hours of ADA approved supervised practice.

Director of nursing services—A registered nurse who is licensed and eligible to practice in this Commonwealth 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. The director of nursing services is responsible for the organization, supervision and administration of the total nursing service program in the facility.

Drug administration—An act in which a single dose of a prescribed drug 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.

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

Drug or 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 subparagraph (i), (ii) or (iii), but not including devices or their components, parts or accessories.

Elopement—When a resident leaves the facility without the facility staff being aware that the resident has done so.

Existing facility—A long-term care nursing facility or section thereof which was constructed and licensed as such on or before July 24, 1999.

Exit or exitway—A required means of direct egress in either a horizontal or vertical direction leading to the exterior grade level.

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 involving a minimum of 4 days per week.

Interdisciplinary team—A team including the resident's attending physician, a registered nurse with responsibility for the resident and other appropriate staff in disciplines as determined by the resident's needs, and the resident. If the resident is cognitively impaired and unable to fully participate, the team shall

include to the extent practicable, the participation of the resident, and shall also include the resident's family, a responsible person or the resident's legal representative.

Licensed practical nurse—A practical nurse licensed to practice under the Practical Nurse Law (63 P. S. §§ 651—667.8).

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.

Locked restraints—A mechanical apparatus or device employed to restrict voluntary movement of a person not removable by the person. The term includes shackles, straight jackets and cage-like enclosures and other similar devices.

Medical record practitioner—A person who is certified or eligible for certification as a registered records administrator (RRA) or a health information technologist/accredited record technician by the American Health Information Management Association (AHIMA) and who has the number of continuing education credits required for each designation by the AHIMA.

NFPA—National Fire Protection Association.

Nonambulatory resident—A resident who is not physically or mentally capable of getting in and out of bed and walking a normal path to safety in a reasonable period of time, including the ascent and descent of stairs, without the aid of another person.

Nonproprietary drug—A drug containing a quantity of controlled substance or drug requiring a prescription, a drug containing biologicals or substances of glandular origin—except intestinal-enzymes and liver products—and drugs which are administered parenterally.

Nurse aide—An individual 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 483.75 (relating to administration).
- (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.

Occupational therapist—A person licensed as an occupational therapist by the State Board of Occupational Therapy Education and Licensure.

Occupational therapy assistant—A person licensed as an occupational therapy assistant by the State Board of Occupational Therapy Education and Licensure.

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 therapist—A person licensed as a physical therapist by the State Board of Physical Therapy.

Physical therapy assistant—A person registered as a physical therapy assistant by the State Board of Physical Therapy.

Physician assistant—An individual certified as a physician assistant by the State Board of Medicine under the Medical Practice Act of 1985 (63 P. S. §§ 422.1—422.45), or by the State Board of Osteopathic Medical Examiners under the Osteopathic Medical Practice Act (63 P. S. §§ 271.1—271.18).

Practice of pharmacy—The practice of the profession concerned with the art and science of the evaluation of prescription orders and the preparing, compounding and dispensing of drugs and devices, whether dispensed on the prescription of a medical practitioner or legally dispensed or provided to a consumer. The term includes the proper and safe storage and distribution of drugs, the maintenance of proper records, the participation in drug selection and drug utilization reviews and the responsibility of relating information as required concerning the drugs and medicines and their therapeutic values and uses in the treatment and prevention of disease. The term does not include the operations of a manufacturer or distributor as defined in The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144).

Prescription—A written or verbal order for drugs issued by a licensed medical practitioner in the course of this professional practice.

Proprietary drug—A drug which does not contain a quantity of a controlled substance which can be purchased without a prescription and may be purchased from sources other than a pharmacy, and is usually sold under a patented or trade name.

Registered nurse—A nurse licensed to practice in this Commonwealth under The Professional Nursing Law (63 P. S. §§ 211—225.5).

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 activities coordinator—A person who meets one of the following requirements:

- (i) Is a qualified therapeutic recreation specialist.
- (ii) Has 2 years of experience in a social or recreational program, within the last 5 years, 1 year of which was full-time in a patient activities program in a health care setting.

Residential unit—A section or area where persons reside who do not require long-term nursing facility care.

Responsible person—A person who is not an employe of the facility and is responsible for making decisions on behalf of the resident. The person shall be so designated by the resident or the court and documentation shall be available on the resident's clinical record to this effect. An employe of the facility will be permitted to be a responsible person only if appointed the resident's legal guardian by the court.

Restraint—A restraint can be physical or chemical.

(i) A physical restraint includes any apparatus, appliance, device or garment applied to or adjacent to a resident's body, which restricts or diminishes the resident's level of independence or freedom.

(ii) A chemical restraint includes psychopharmacologic drugs that are used for discipline or convenience and not required to treat medical symptoms.

Skilled or intermediate nursing care—Professionally supervised nursing care and related medical and other health services provided for a period exceeding 24 hours to an individual not in need of hospitalization, but whose needs are above the level of room and board and can only be met in a long-term care nursing facility on an inpatient basis because of age, illness, disease, injury, convalescence or physical or mental infirmity. The term includes the provision of inpatient services that are needed on a daily basis by the resident, ordered by and provided under the direction of a physician, and which require the skills of professional personnel, such as, registered nurses, licensed practical nurses, physical therapists, occupational therapists, speech pathologists or audiologists.

Social worker—An individual with the following qualifications:

(i) A Bachelor's Degree in social work or a Bachelor's Degree in a human services field including sociology, special education, rehabilitation counseling and psychology.

(ii) One year of supervised social work experience in a health care setting working directly with individuals.

Speech/language pathologist—A person licensed as a speech/language pathologist by the State Board of Examiners in Speech-Language and Hearing, or excluded from the requirements of licensure under the Speech-Language and Hearing Licensure Act (63 P. S. §§ 1701—1719).

Authority

The provisions of this § 201.3 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 § 201.3 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. Immediately preceding text appears at serial pages (202309) to (202317).

Cross References

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

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.

(a) An application for a license to operate a facility shall be made under section 807 of the act (35 P. S. § 448.807). The application form shall be obtained from the Division of Nursing Care Facilities, Bureau of Quality Assurance, Department of Health.

(b) The following shall be submitted with the application for licensure:

(1) The names and addresses of a person who has direct or indirect ownership interest of 5% or more in the facility as well as a written list of the names and addresses of the facility's officers and members of the board of directors.

(2) If the owner is a nonprofit corporation, a complete list of the names and addresses 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 the owner is a partnership, the names and addresses of partners.

(4) The name, address and license number of the administrator.

Authority

The provisions of this § 201.12 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 § 201.12 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. Immediately preceding text appears at serial page (202318).

Cross References

This section cited in 28 Pa. Code § 201.18 (relating to management).

§ 201.13. Issuance of license.

(a) A person may not maintain or operate a facility without first obtaining a license issued by the Department. A license to operate a facility is not transferable without prior approval of the Department.

(b) A license to operate a facility will be issued when the Department receives the completed application form and the licensure fee and when, after inspection by an authorized representative of the Department, it has been determined that the necessary requirements for licensure have been met.

(c) The required fee for a license is:

Regular Licenses (new or renewal)	\$250
Each inpatient bed in excess of 75 beds	\$2
Provisional I License	\$400
Each inpatient bed	\$4
Provisional II License	\$600
Each inpatient bed	\$6
Provisional III License	\$800
Each inpatient bed	\$8
Provisional IV License	\$1,000
Each inpatient bed	\$10

(d) The license will be issued to the owner of a facility and will indicate the name and address of the facility, the number and types of beds authorized and the date of the valid license.

(e) A regular license will be issued when, in the judgment of the Department, there is substantial compliance with this subpart.

(f) A provisional license is governed by the following:

(1) A provisional license will be issued if there are numerous deficiencies or a serious specific deficiency and if the facility is not in substantial compliance with this subpart and the Department finds that:

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

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

(2) The provisional license will be issued for a specified period of time not more than 6 months. The provisional license may be renewed, at the discretion of the Department, no more than three times. Upon substantial compliance with this subpart, a regular license will be issued.

(g) The facility shall have on file the most recent inspection reports, relating to the health and safety of residents, indicating compliance with applicable State and local statutes and regulations. Upon request, the facility shall make the most recent report available to interested persons.

(h) If the Department's inspection report indicates deficiencies, the facility shall indicate in writing its plans to make corrections and specify dates by which the corrective measures will be completed. The plans are valid only upon approval by the Department.

(i) The current license shall be displayed in a public and conspicuous place in the facility.

Authority

The provisions of this § 201.13 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 § 201.13 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. Immediately preceding text appears at serial pages (202318) to (202319).

§ 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 State and local agencies responsible for the health and welfare of residents.

(b) If the services are purchased for the administration or management of the facility, the licensee is responsible for insuring compliance with this subpart, and other relevant Commonwealth regulations.

(c) The licensee through the administrator shall report 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) In addition to the notification requirements in § 51.3, the facility shall report in writing to the appropriate division of nursing care facilities field office:

- (1) Transfers to hospitals as a result of injuries or accidents.
- (2) Admissions to hospitals as a result of injuries or accidents.

(e) The administrator shall notify the appropriate division of nursing care facilities field office as soon as possible, or, at the latest, within 24 hours of the incidents listed in § 51.3 and subsection (d).

(f) Upon receipt of a strike notice, the licensee or administrator shall promptly notify the appropriate Division of Nursing Care Facilities field office 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, on forms issued by the Department, census, rate and program occupancy information as the Department may request.

Authority

The provisions of this § 201.14 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 § 201.14 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. Immediately preceding text appears at serial pages (202320) to (202321).

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) A license shall apply only to the licensure, the name of the facility and the premises designated therein. It may not be transferable to another licensee or property without prior written approval of the Department.

(b) A license becomes void without notice if any of the following conditions exist:

(1) The expiration date has been reached.

(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 for the transfer of the license.

(4) There is a change in the location of the facility and the Department has not given prior approval.

(c) A final order or determination by 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 § 201.15 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 § 201.15 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. Immediately preceding text appears at serial page (202321).

§ 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.

The facility shall be operated as a unit reasonably distinct from the other related services, if located in a building which offers various levels of health-related services.

Authority

The provisions of this § 201.17 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 § 201.17 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. Immediately preceding text appears at serial page (202322).

§ 201.18. Management.

(a) The facility shall have an effective governing body or designated person functioning with full legal authority and responsibility for the operation of the facility.

(b) The governing body 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.
- (3) The general operation of the facility.

(c) The governing body shall provide the information required in § 201.12 (relating to application for license) and prompt reports of changes which would affect the current accuracy of the information required.

(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; shall be made available to the members of the governing body, which shall ensure that they are operational; and shall be reviewed and revised, in writing, as necessary. The policies and bylaws shall be available upon request, to residents, responsible persons and for review by members of the public.

(e) The governing body shall appoint a full-time administrator who is currently licensed and registered in this Commonwealth and who is responsible for the overall management of the facility. The Department may, by exception, permit a long-term care facility of 25 beds or less to share the services of an administrator in keeping with section 3(b) of the Nursing Home Administrators License Act (63 P. S. § 1103(b)). The sharing of an administrator shall be limited to two facilities. The schedule of the currently licensed administrator shall be publicly posted in each facility. 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.
- (3) Maintaining an ongoing relationship with the governing body, medical and nursing staff and other professional and supervisory staff through meetings and periodic reports.
- (4) Studying and acting upon recommendations made by committees.
- (5) Appointing, in writing and in concurrence with the governing body, a responsible employe 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 and funds received or deposited with the facility and for expenditures and disbursements made on behalf of the resident. The record shall be available for review by the resident or resident's responsible person 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's responsible person shall designate, in writing, the transfer of the responsibility. The facility shall provide the residents with access to their money within 3 bank business days of the request and in the form—cash or check—requested by the resident.

Authority

The provisions of this § 201.18 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 § 201.18 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. Immediately preceding text appears at serial pages (202323) to (202325).

§ 201.19. Personnel policies and procedures.

Personnel records shall be kept current and available for each employe and contain sufficient information to support placement in the position to which assigned.

Authority

The provisions of this § 201.19 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 § 201.19 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. Immediately preceding text appears at serial pages (202325) to (202326).

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 employes, 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 training related to problems, needs and rights of the residents.

(b) An employe shall receive appropriate orientation to the facility, its policies and to the position and duties. The orientation shall include training on the prevention of resident abuse and the reporting of the abuse.

(c) There shall be at least annual in service training which includes at least infection prevention and control, fire prevention and safety, accident prevention, disaster preparedness, resident confidential information, resident psychosocial needs, restorative nursing techniques and resident rights, including personal property rights, privacy, preservation of dignity and the prevention and reporting of resident abuse.

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

Authority

The provisions of this § 201.20 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 § 201.20 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. Immediately preceding text appears at serial pages (202326) to (202327).

§ 201.21. Use of outside resources.

(a) The facility is responsible for insuring that personnel and services provided by outside resources meet all necessary licensure and certification requirements, including those of the Bureau of Professional and Occupational Affairs in the Department of State, as well as requirements of this subpart.

(b) If the facility does not employ a qualified professional person to render a specific service to be provided by the facility, it shall make arrangements to have the service provided by an outside resource, a person or agency that will render direct service to residents or act as a consultant to the facility.

(c) The responsibilities, functions and objectives and the terms of agreement, including financial arrangements and charges of the outside resource shall be

delineated in writing and signed and dated by an authorized representative of the facility and the person or agency providing the service.

(d) Outside resources supplying temporary employes to a facility shall provide the facility with documentation of an employe's health status as required under § 201.22 (c)—(j) and (l)—(m) (relating to prevention, control and surveillance of tuberculosis (TB)).

Authority

The provisions of this § 201.21 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 § 201.21 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. Immediately preceding text appears at serial pages (202327) to (202328).

§ 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 employes who have a possible TB infection or active TB.

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

(c) A baseline TB status shall be obtained on all residents and employes in the facility.

(d) The intradermal tuberculin skin test is to be used whenever skin testing is done. This consists of an intradermal injection of 0.1 ml of purified protein derivative (PPD) tuberculin containing 5 tuberculin units (TU) using a disposable tuberculin syringe.

(e) The 2-step intradermal tuberculin skin test shall be the method used for initial testing of residents and employes. If the first test is positive, the person tested shall be considered to be infected. If the first test is negative, a second test should be administered in 1—3 weeks. If the second test is positive, the person tested shall be considered to be previously infected. If the second test result is negative, the person is to be classified as uninfected.

(f) Persons with reactions of ≥ 10 mm or persons with symptoms suggestive of TB regardless of the size of the test reaction, shall be referred for further diagnostic studies in accordance with CDC recommendations.

(g) A written report of test results shall be maintained in the facility for each individual, irrespective of where the test is performed. Reactions shall be recorded in millimeters of induration, even those classified as negative. If no induration is found, "0 mm" is to be recorded.

(h) Skin test “negative” employes having regular contact of 10 or more hours per week with residents shall have repeat tuberculin skin tests at intervals determined by the risk of transmission in the facility. The CDC protocol for conducting a TB risk assessment in a health care facility shall be used to establish the risk of transmission.

(i) Repeat skin tests shall be required for tuberculin-negative employes and residents after any suspected exposure to a documented case of active TB.

(j) New employes shall have the 2-step intradermal skin test before beginning employment unless there is documentation of a previous positive skin reaction. Test results shall be made available prior to assumption of job responsibilities. CDC guidelines shall be followed with regard to repeat periodic testing of all employes.

(k) The intradermal tuberculin skin test shall be administered to new residents upon admission, unless there is documentation of a previous positive test.

(l) New tuberculin positive reactors (converters) and persons with documentation of a previous positive reaction, shall be referred for further diagnostic testing and treatment in accordance with current standards of practice.

(m) If an employe’s chest X-ray is compatible with active TB, the individual shall be excluded from the workplace until a diagnosis of active TB is ruled out or a diagnosis of active TB is established and a determination made that the individual is considered to be noninfectious. A statement from a physician stating the individual is noninfectious shall be required.

(n) A resident with a diagnosis of TB may be admitted to the facility if:

(1) Three consecutive daily sputum smears have been negative for acid-fast bacilli.

(2) The individual has received appropriate treatment for at least 2—3 weeks.

(3) Clinical response to therapy, as documented by a physician, has been favorable.

Authority

The provisions of this § 201.22 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 § 201.22 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. Immediately preceding text appears at serial page (202328).

Cross References

This section cited in 28 Pa. Code § 201.21 (relating to use of outside resources).

201-20

§ 201.23. Closure of facility.

(a) The administrator or owner shall notify the appropriate Division of Nursing Care Facilities field office at least 90 days prior to closure.

(b) If the facility is to be closed, the licensee shall notify the resident or the resident's responsible person in writing.

(c) Sufficient time shall be given to the resident or the resident's responsible person to effect an orderly transfer.

(d) No resident in a facility may 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 insure that the facility continues to operate in a satisfactory manner for a period of 30 days following the notice of intent to close.

Authority

The provisions of this § 201.23 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 § 201.23 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. Immediately preceding text appears at serial pages (202328) to (202329).

§ 201.24. Admission policy.

(a) The resident may be permitted to name a responsible person. The resident is not required to name a responsible person 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.

Authority

The provisions of this § 201.24 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 § 201.24 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. Immediately preceding text appears at serial pages (202329) to (202330).

§ 201.25. Discharge policy.

There shall be a centralized coordinated discharge plan for each resident to ensure that the resident has a program of continuing care after discharge from the facility. The discharge plan shall be in accordance with each resident's needs.

Authority

The provisions of this § 201.25 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 § 201.25 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. Immediately preceding text appears at serial pages (202330) to (202331).

§ 201.26. Power of attorney.

Power of attorney may not be assumed for a resident by the licensee, owner/operator, members of the governing body, an employe or anyone having a financial interest in the facility unless ordered by a court of competent jurisdiction.

Authority

The provisions of this § 201.26 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 § 201.26 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. Immediately preceding text appears at serial page (202331).

§ 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 and, through the administrator, shall be responsible for development of and adherence to procedures implementing the policies.

(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.

(d) The staff of the facility shall be trained and involved in the implementation of the policies and procedures.

(e) The resident or if the resident is not competent, the resident's responsible person, shall be informed verbally and in writing prior to, or at the time of admission, of services available in the facility and of charges covered and not covered by the per diem rate of the facility. If changes in the charges occur during the resident's stay, the resident shall be advised verbally and in writing reasonably in advance of the change. "Reasonably in advance" shall be interpreted to be 30 days unless circumstances dictate otherwise. If a facility requires a secu-

rity deposit, the written procedure or contract that is given to the resident or resident's responsible person shall indicate how the deposit will be used and the terms for the return of the money. A security deposit is not permitted for a resident receiving Medical Assistance (MA).

(f) The resident shall be transferred or discharged only for medical reasons, for his welfare or that of other residents or for nonpayment of stay if the facility has demonstrated reasonable effort to collect the debt. Except in an emergency, a resident may not be transferred or discharged from the facility without prior notification. The resident and the resident's responsible person shall receive written notification in reasonable advance of the impending transfer or discharge. Reasonable advance notice shall be interpreted to mean 30 days unless appropriate plans which are acceptable to the resident can be implemented sooner. The facility shall inform the resident of its bed-hold policy, if applicable, prior to discharge. The actions shall be documented on the resident record. Suitable clinical records describing the resident's needs, including list of orders and medications as directed by the attending physician shall accompany the resident if the resident is sent to another medical facility.

(g) Unless the discharge is initiated by the resident or resident's responsible person, the facility is responsible to assure that appropriate arrangements are made for a safe and orderly transfer and that the resident is transferred to an appropriate place that is capable of meeting the resident's needs. Prior to transfer, the facility shall inform the resident or the resident's responsible person as to whether the facility where the resident is being transferred is certified to participate in the Medicare and MA reimbursement programs.

(h) It is not necessary to transfer a resident whose condition had changed within or between health care facilities when, in the opinion of the attending physician, the transfer may be harmful to the physical or mental health of the resident. The physician shall document the situation accordingly on the resident's record.

(i) The resident shall be encouraged and assisted throughout the period of stay to exercise rights as a resident and as a citizen and may voice grievances and recommend changes in policies and services to the facility staff or to outside representatives of the resident's choice. The resident or resident's responsible person shall be made aware of the Department's Hot Line (800) 254-5164, the telephone number of the Long-Term Care Ombudsman Program located within the Local Area Agency on Aging, and the telephone number of the local Legal Services Program to which the resident may address grievances. A facility is required to post this information in a prominent location and in a large print easy to read format.

(j) The resident shall be treated with consideration, respect and full recognition of dignity and individuality, including privacy in treatment and in care for the necessary personal and social needs.

(k) The resident shall be permitted to retain and use personal clothing and possessions as space permits unless to do so would infringe upon rights of other residents and unless medically contraindicated, as documented by his physician in the medical record. Reasonable provisions shall be made for the proper handling of personal clothing and possessions that are retained in the facility. The resident shall have access and use of these belongings.

(l) The resident's rights devolve to the resident's responsible person as follows:

- (1) When the resident is adjudicated incapacitated by a court.
- (2) As Pennsylvania law otherwise authorizes.

(m) The resident rights in this section shall be reflected in the policies and procedures of the facility.

(n) 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's rights. The facility shall on admission provide a resident or resident's responsible person with a personal copy of the notice. In the case of a resident who cannot read, write or understand English, arrangements shall be made to ensure that this policy is fully communicated to the resident. A certificate of the provision of personal notice as required in this section shall be entered in the resident's clinical record.

(o) Experimental research or treatment in a nursing home may not be carried out without the approval of the Department and without the written approval of the resident after full disclosure. For the purposes of this subsection, "experimental research" means an experimental treatment or procedure that is one of the following:

- (1) Not a generally accepted practice in the medical community.
- (2) Exposes the resident to pain, injury, invasion of privacy or asks the resident to surrender autonomy, such as a drug study.

Authority

The provisions of this § 201.29 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 § 201.29 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. Immediately preceding text appears at serial pages (202333) to (202336).

§ 201.30. Access requirements.

(a) The facility may limit access to a resident when the interdisciplinary care team has determined it may be a detriment to the care and well-being of the resident in the facility. The facility may not restrict the right of the resident to have legal representation or to visit with the representatives of the Department of Aging Ombudsman Program. A facility may not question an attorney representing the resident or representatives of the Department, or the Department of Aging Ombudsman Program, as to the reason for visiting or otherwise communicating with the resident.

(b) A person entering a facility who has not been invited by a resident or a resident's responsible persons shall promptly advise the administrator or other available agent of the facility of that person's presence. The person may not enter the living area of a resident without identifying himself to the resident and without receiving the resident's permission to enter.

Authority

The provisions of this § 201.30 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 § 201.30 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. Immediately preceding text appears at serial pages (202336) to (202338).

§ 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 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 § 201.31 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. Immediately preceding text appears at serial page (202338).

§ 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).

[Next page is 203-1.]