

**Pennsylvania Department of Health**

# Long Term Care Facility Regulations

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## GENERAL PROVISIONS

Interpretive Guidelines are provided throughout this document. Links to specific sections of the Federal regulations at 42 CFR Part 483, Subpart B, are included where these sections are cross-referenced throughout the regulations.

[SOM - Appendix PP \(cms.gov\)](#)

### § 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).

### § 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.

### Interpretive Guidelines

Licensed only facilities, which are facilities that do not participate in Medicare/Medicaid, do not have to submit MDS's for reimbursement.

CMS has authority to collect MDS data for residents who are on a Medicare and/or Medicaid certified unit. [Item A0410 captures the certification designation, and QIES will reject records that CMS is not authorized to collect.]

Assessments that are completed for purposes other than OBRA and SNF PPS reasons are not to be submitted to CMS through the QIES system. [from RAI Manual Chapter 5]

### § 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).

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*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.

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(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).

### **Interpretive Guidelines**

The charge nurse must be an RN unless it is the night shift, the facility has a census of 59 or less, AND there is an RN within 30 minutes of the facility.

*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 facility or other location in the community, when return to the original facility is not expected.

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

### **Interpretive Guidelines**

Safe area means an area that is safe for the resident. This would be assessed for each resident on an individual basis. For instance, it may be safe for an alert and oriented resident to be in a courtyard, but it may not be safe for a resident with dementia to be in a courtyard.

Unauthorized absence means that a resident leaves the facility without staff being aware that the resident has done so.

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*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](#).

### **Interpretive Guidelines**

[SOM - Appendix PP \(cms.gov\)](#)

*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).

### **Interpretive Guidelines**

[1987 Act 79 - PA General Assembly \(state.pa.us\)](#)

*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 at 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:

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(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.

[SOM - Appendix PP \(cms.gov\)](#)

*Mistreatment*—As defined in 42 CFR 483.5.

[SOM - Appendix PP \(cms.gov\)](#)

*NFPA*—National Fire Protection Association.

*Neglect*—As defined in 42 CFR 483.5.

[SOM – Appendix PP \(cms.gov\)](#)

*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.

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- (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.

[SOM - Appendix PP \(cms.gov\)](#)

*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).

[SOM - Appendix PP \(cms.gov\)](#)

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

**Interpretive Guidelines**

Qualified Social Worker includes social services coordinator.

[SOM - Appendix PP \(cms.gov\)](#)

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

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*RN—registered nurse*—An individual licensed to practice professional nursing under The Professional Nursing Law and the regulations of the State Board of Nursing at 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.

[SOM – Appendix PP \(cms.gov\)](#)

*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.

[1987 Act 79 - PA General Assembly \(state.pa.us\)](#)

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

[1987 Act 79 - PA General Assembly \(state.pa.us\)](#)

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

*Substantial compliance*—

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(1) 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

(2) 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*—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 the resident's family again.

## 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.

### § 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.

### **Interpretive Guidelines**

A prospective licensee shall notify the department per Chapter 51.3 and 51.4 60 days prior for new facility and 30 days prior for change in ownership (CHOW). This shall be by letter to the Department, in which the Department will respond with an application. Letter should be emailed to [RA-DHNCFCHOW@pa.gov](mailto:RA-DHNCFCHOW@pa.gov).

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

#### Interpretive Guidelines

This will be provided by the Department once notification is made by the prospective licensee.

(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.

#### Interpretive Guidelines

"Direct Ownership" means an interest through the possession of stock, equity in capital or any interest in the profits of the Applicant.

"Indirect Ownership" means an interest in an entity that has direct or indirect ownership interest in the Applicant. The amount of indirect ownership in the Applicant that is held by any other entity is determined by multiplying the percentage of ownership interest at each level. An indirect ownership interest must be reported if it equates to an ownership interest of 5 percent or more In the Applicant.

- (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 who have or will have an interest in the management of the facility.

#### Interpretive Guidelines

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This should include the names, addresses, e-mail addresses and phone numbers of the person(s) with a direct or indirect interest not just the corporation name.

(6) The names, addresses, e-mail addresses and phone numbers of the facility's officers and members of the board of directors.

#### Interpretive Guidelines

This should include the names, addresses, e-mail addresses and phone numbers of the person(s) with a direct or indirect interest of the individual(s), not just the corporation name.

(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)

#### Interpretive Guidelines

See 201.12(c) for clarification on "related party".

(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 shall 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.

#### Interpretive Guidelines

In accordance with GAAP principles, audited financial statements include a Balance Sheet, Cash Flow Statement, Income Statement, Statement of Shareholder Equity, and an auditor opinion.

For new owners, copies of audited financials of other facilities owned in Pennsylvania or in other jurisdictions, proof of capital or financing to support operations, including but not limited to proposed and executed letters or lines of credit, and the most recent year's Medicaid and/or Medicare reports may be accepted as suitable for Department review, in conjunction with the information an applicant must provide under section 201.12(e)(5).

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The visual representation of the current ownership structure must be a graphic illustration of the organizational structure, such as an organizational chart. Lists depicting ownership will not be accepted.

(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.

#### Interpretive Guidelines

This should include the name, address, phone number, website if available and license and/or Medicare Provider Number (CCN) for each facility.

(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.

#### Interpretive Guidelines

This should include the name, address, phone number, website if available and license &/or Medicare Provider Number (CCN) for each facility. This list should identify which prospective licensee has direct or indirect ownership interest and the amount of interest in each facility. Include a list of the licenses issued to each facility by the issuing authority for the past 3 calendar years as well as a list of all the surveys completed at the facility and a summary of the results for the past 3 calendar years. Copies of the deficiency reports are not necessary.

(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.

#### Interpretive Guidelines

This should include the name, address, email address and phone number for each person and should include a description of the action as a result of the financial distress. Additionally, please provide the relevant dates of financial distress and the outcome or anticipated outcome for each category or occurrence of financial distress.

(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).

#### Interpretive Guidelines

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Include anyone in paragraph (1):

- (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.

And a person under paragraph (7):

- (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).

Refer to 201.12(d) for definition of “immediate family member”.

- (14) Any additional information the department may require.

**Interpretive Guidelines**

The Department may request additional information and upon request, will describe the requested information and how to submit it.

(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.

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- (7) A banking or financial entity.
- (8) A parent company, holding company, or sister organization.

### **Interpretive Guidelines**

#### **eCFR :: 42 CFR 413.17 -- Cost to related organizations**

(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 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.

### **Interpretive Guidelines**

The plan shall include the current staffing levels (3 weeks of PPDs) from the existing facility for CHOWs and vacancies; how the prospective licensee plans to obtain and maintain the required PPD and ratios as outlined in 211.12; the intended recruitment and retention plan.

(2) A proposed training plan for staff.

### **Interpretive Guidelines**

Include how the prospective licensee proposes to implement a training plan to ensure staff are fully competent on policies and procedures, and to adhere to the required trainings for all 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.

### **§ 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

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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.

### Interpretive Guidelines

The requirement to notify residents and employees of the facility could be met through the prospective licensee working with the current licensee to post written notice of the potential change of ownership in a public location at the facility in a conspicuous manner. Direct notice must be given to the Office of the State Long-Term Care Ombudsman.

A copy of the letter or email sent to the Office of the State Long Term Care Ombudsman would meet the requirement of notification to that Office.

(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 website.

(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 website and provide a 10-day public comment period.

### **§ 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 website.

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(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).

### **Interpretive Guidelines**

The Department may request additional information and upon request, will describe the requested information and how to submit it. Documentation will be reviewed for concerns related to the organization's ability to successfully maintain operations and consistently meet resident needs.

### **§ 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].

### **§ 201.13a. Regular license.**

The Department will issue a regular one-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.

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### § 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.

### Interpretive Guidelines

A full licensure survey must be completed to determine substantial compliance. This would not be a revisit.

### § 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 one-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.

### Interpretive Guidelines

Either the facility must return to a regular license, or the license will be terminated.

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## § 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.

### Interpretive Guidelines

Reporting should be through the Department's designated system.

(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.

### Interpretive Guidelines

Reporting should be through the Department's designated system.

(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.

### Interpretive Guidelines

“Have on file” may consist of electronic files readily available for interested persons.

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(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.

### **Interpretive Guidelines**

The facility-wide assessment should be shared with the governing body, medical and nursing staff and other professional and supervisory staff as indicated quarterly.

#### **§ 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].

#### **§ 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.

#### **§ 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)).

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§ 201.16. [Reserved].

§ 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.

**Interpretive Guidelines**

For new facilities, the “approval of the Department” consists of a letter from the facility providing the information in paragraphs (1) - (4) to the Department and a response from the Department approving and indicating that the facility meets all four criteria.

For existing facilities that currently have exceptions, the Department will check to see if the facility meets these criteria during its annual licensure survey and will provide an approval letter and remove the exception. If the facility does not meet the criteria, the Department will consider whether the facility still requires an exception to the requirements of this section.

§ 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.

**Interpretive Guidelines**

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The facility is responsible for returning the property and can do this however it chooses. If a family does not want the property, the facility should have instructions in writing from the family for the distribution of that personal property, e.g., an email that says to donate the clothing to Goodwill. A documented phone call with the facility social worker and the family would also meet this requirement. Minimum documentation of the call would include date, time and those on the call.

(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) — § 201.12(b)(6) (relating to application for license of a new facility or change in ownership).

### **Interpretive Guidelines**

The report should be in writing, preferably in the form of a letter to the Division of Nursing Care Facilities, via email to the CHOW email address (RA-DHNCFCHOW@pa.gov).

(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.

### **Interpretive Guidelines**

The facility should provide the information required in this section to the Department in writing/electronic form. The Department will keep the information in the facility's file.

When sharing an administrator in a facility 25 beds or less the administrator is expected to provide adequate time between the two facilities to ensure quality of care and quality of life for the resident population in each facility.

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(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.

### Interpretive Guidelines

The facility will need to provide evidence that the DON has knowledge and experience as noted in (4). Examples of evidence include a resume, performance standards and evaluations, or a letter from the Medical Director.

(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 the 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.

### Interpretive Guidelines:

Meetings and reports must occur at least on a monthly basis if the facility deems more often can hold additional meetings.

Virtual meetings do count as a monthly meeting. The minutes/notes from meetings will be accepted as monthly report.

(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.

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(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.

#### **§ 201.19. Personnel policies and procedures.**

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.

#### **Interpretive Guidelines:**

A facility needs to provide documentation that an employee has participated in orientation to the facility and the assigned position either prior to start date or within 1 week. This could be a checklist that indicates the employee has been shown around the facility and knows where key areas are as well as key personnel and that they have been provided a job description with expectations outlined.

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(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.

### § 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.

#### Interpretive Guideline:

Personnel training on the topic of "accident prevention" should include the prevention of accidents to both residents and staff.

(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.

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**§ 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.

**§ 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.

**Interpretive Guidelines:**

The TB infection control plan includes residents and employees and the facility must follow the CDC guidelines and utilize an approved method of management, screening and surveillance.

For existing facilities that currently have exceptions, the Department will review the existing exception during its annual licensure survey and will remove the exception from prior to July 1, 2023 as it will not be necessary after July 1, 2023 with the updated guidance above.

(c) [Reserved].

(d) [Reserved].

(e) [Reserved].

(f) [Reserved].

(g) [Reserved].

(h) [Reserved].

(i) [Reserved].

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

**§ 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.

**Interpretive Guidelines:**

A closure plan should be developed for the above listed information, understanding that residents change over time. However, when a facility plans to close, the plan should be updated as soon as possible. This means identifying obstacles to transferring residents, such as a lack of a current

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payment source (Medicaid / Grant) and resident identification issues (lack of a SS card, driver's license, or identification card).

(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 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.

### Interpretive Guidelines:

Examples of services include dietary services.

(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.

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(3) Contact information for the Office of the State Long-Term Care Ombudsman Program.

(4) The transfer and relocation plan of residents.

(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 ensure that the facility continues to operate in a satisfactory manner until closure of the facility.

#### § 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.

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(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.

### **Interpretive Guidelines:**

Refer to 483.10 for information on homelike environment [SOM - Appendix PP \(cms.gov\)](#)

(f) The coordination of introductions, orientation and discussions, under subsection (e), shall be the responsibility of the facility's social worker, or a delegee 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 resident's admission. The activities included under subsection (e)(5) shall occur within 72 hours of a resident's admission.

§ 201.25. [Reserved].

### **§ 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.

### **§ 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.

§ 201.28. [Reserved].

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## § 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:

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(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].

§ 201.30. [Reserved].

#### § 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.

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(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.

§ 201.32. [Reserved].

§ 201.33. [Reserved].

§ 201.34. [Reserved].

§ 201.35. [Reserved].

§ 201.36. [Reserved].

§ 201.37. [Reserved].

§ 201.38. [Reserved].

## CHAPTER 203. [Reserved].

§ 203.1. [Reserved].

## CHAPTER 204. PHYSICAL ENVIRONMENT AND EQUIPMENT STANDARDS FOR CONSTRUCTION, ALTERATION OR RENOVATION OF LONG-TERM CARE NURSING FACILITIES

### § 204.1. Application of Guidelines for Design and Construction of Residential Health, Care and Support Facilities.

(a) In addition to the requirements set forth in this chapter, facility construction, alteration or renovation approved on or after July 1, 2023 shall comply with the 2018 edition of the Facility Guidelines Institute *Guidelines for Design and Construction of Residential Health, Care, and Support Facilities*.

(b) Facility construction, alteration or renovation approved before July 1, 2023 shall comply with the standards set forth in Chapter 205 (relating to physical environment and equipment standards for existing long-term care nursing facilities).

(c) Construction, alteration or renovation shall meet the requirements in effect on the date that the facility's plans construction, alteration or renovation are approved by the Department.

### § 204.2. Building plans.

(a) A licensee or prospective licensee shall submit its plans for construction, alteration or renovation to the Department. The Department will post instructions for submissions on its public website.

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(b) A licensee or prospective licensee shall have the opportunity to present and discuss with the Department its purposes and plans concerning the requested changes indicated on architectural plans submitted under § 51.3(d) (relating to notification). If differences occur and cannot be resolved, an administrative hearing may be sought under 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(c) Construction, alteration or renovation approved by the Department shall begin within 2 years of the Department's approval and shall be completed within 5 years of the Department's approval.

(d) A facility may seek an extension of the time periods under subsection (c) for beginning or completing an approved construction, alteration or renovation by written request to the Department. The Department may approve an extension for good cause shown.

(e) A facility shall obtain approval from the Department before using an area of the facility for resident care when that area has not been occupied or used by residents for 1 year or more.

### § 204.3. Buildings and grounds; general.

(a) A building to be used for and by residents shall be located in an area that is geographically and environmentally conducive to the health and safety of residents.

(b) No part of a building may be used for a purpose that interferes with or jeopardizes the health and safety of residents. Special authorization shall be given by the Department's Division of Nursing Care Facilities if a part of the building is to be used for a purpose other than health care.

(c) Only residents, employees, the licensee, the administrator or members of the administrator's immediate family may reside in the facility.

(d) Grounds shall be adequate to provide necessary service areas and outdoor areas for residents. A facility may provide rooftop or balcony areas if adequate protective enclosures are provided.

(e) A delivery area, service yard or parking area shall be located so that traffic does not cross an area commonly used by residents.

### § 204.4. Basement.

(a) A basement may be used for storage, laundry, kitchen, heat, electric and water equipment. Approval from the Department's Division of Nursing Care Facilities shall be secured before any part of the basement may be used for other purposes, such as physical therapy, central supply and occupational therapy.

#### **Interpretive Guidelines:**

Existing facilities that use the basement for things like physical therapy or central supply would need to be granted an exception by the Department.

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(b) A door to a basement may not be located in a resident room.

#### § 204.5. Resident rooms.

(a) A bed for a resident may be placed only in a room approved by the Department as a resident room.

#### Interpretive Guidelines:

If the resident prefers to sleep in a recliner or alternative to a bed, the recliner or alternative may be placed only in a room approved by the Department as a resident room.

(b) The basement of a facility may not be used for resident rooms.

(c) The maximum number of residents who may be accommodated in a facility shall be indicated on the facility license. The number of resident rooms and the number of beds in a room may not exceed the maximum number approved by the Department.

(d) A resident shall have a choice in the placement of the resident's bed in the room unless the placement presents a safety hazard.

(e) A bed may not be placed close to a radiator, heat vent, air conditioner, direct glare of natural light or draft unless the resident chooses to do so and the placement does not pose a safety hazard.

(f) A resident shall be provided with a drawer or cabinet in the resident's room that can be locked.

#### Interpretive Guidelines:

A key shall be provided to the resident to utilize the locked drawer or cabinet.

#### § 204.6. Locks.

A door into a room used by a resident may not be locked from the outside when the resident is in the room.

#### § 204.7. Laundry.

Equipment shall be made available and accessible for residents desiring to do their personal laundry.

#### § 204.8. Utility room.

The facility shall make provisions in each nursing unit for utility rooms. The nursing unit shall have separate soiled and clean workrooms. The rooms may not be more than 120 feet from the most remote room served.

#### § 204.9. Bathing facilities.

(a) A facility shall provide a general bathing area in each nursing unit to serve resident rooms that do not have adjoining bathrooms with a bathtub or shower.

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(b) Unless bathing fixtures are located in a separate room, there shall be compartments to permit privacy. Cubicle curtains may provide this privacy.

(c) Each bathing room shall include a toilet and lavatory. If more than one tub or shower is in the bathing room, privacy shall be provided at each bathing facility and at the toilet.

(d) The facility shall have at least one bathtub in each centralized bath area on each floor.

#### § 204.10. Toilet facilities.

Toilets and lavatories, other than resident facilities, shall be provided for visitors in a facility.

#### § 204.11. Equipment for bathrooms.

(a) Grab bars shall be installed as necessary at each tub and shower for safety and convenience. Grab bars, accessories and anchorage shall have sufficient strength to accommodate the residents' needs.

(b) The general bathroom or shower room used by residents shall have one emergency signal bell located in close proximity to the tub or shower and which registers at the workstation. An emergency signal bell shall also be located at each toilet unless a signal bell can be reached by the resident from both the toilet and tub or shower.

(c) The facility shall make provisions to get residents in and out of bathtubs in a safe way to prevent injury to residents and personnel. The facility shall provide appropriate supervision and assistance to ensure the safety of all residents being bathed.

(d) A dressing area shall be provided immediately adjacent to the shower stall and bathtub. In the dressing area, there shall be provisions for keeping clothes dry while bathing.

(e) The facility shall ensure that water for baths and showers is at a safe and comfortable temperature before the resident is bathed.

#### § 204.12. Toilet room equipment.

Each toilet used by residents shall be provided with handrails or assist bars on each side capable of accommodating the residents' needs.

#### § 204.13. Linen.

The facility shall have available at all times a quantity of linens essential for proper care and comfort of residents.

#### § 204.14. Supplies.

Adequate supplies shall be available at all times to meet the residents' needs.

#### § 204.15. Windows.

(a) Each window opening in the exterior walls that are used for ventilation shall be effectively covered by screening.

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(b) A room with windows opening onto light or air shafts, or onto an exposure where the distance between the building or an obstruction higher than the windowsill is less than 20 feet, may not be used for resident rooms.

**§ 204.16. Dining.**

The dining area shall be a minimum of 15 square feet per bed for the first 100 beds and 13 1/2 square feet per bed for beds over 100. This space is required in addition to the space required for lounge and recreation rooms.

**§ 204.17. Lounge and recreation rooms.**

A recreation or lounge room shall be a minimum of 15 square feet of floor space per bed provided for the first 100 beds and 13 1/2 square feet for all beds over 100. A facility shall provide recreation or lounge rooms for residents on each floor.

**§ 204.18. Storage.**

General storage space shall be provided for storage of supplies, furniture, equipment, residents' possessions and the like. Space provided for this purpose shall be commensurate with the needs of the nursing facility but may not be less than 10 square feet per bed.

**§ 204.19. Plumbing, heating ventilation and air conditioning and electrical.**

Building systems, such as plumbing, heating, ventilation, air conditioning and electrical must comply with all State and local codes.

**§ 204.20 Airborne infection isolation room.**

A facility shall have at least one airborne infection isolation room for isolating residents as necessary to prevent the spread of airborne infections. An airborne infection isolation room shall be in accordance with the 2018 edition of The Facility Guidelines Institute *Guidelines for Design and Construction of Residential Health, Care, and Support Facilities*.

**CHAPTER 205. PHYSICAL ENVIRONMENT AND EQUIPMENT STANDARDS FOR LONG-TERM CARE NURSING FACILITIES CONSTRUCTION, ALTERATION OR RENOVATION APPROVED BEFORE JULY 1, 2023.**

**BUILDINGS AND GROUNDS**

**§ 205.1. Location or site.**

A building to be used for and by residents shall be located in areas conducive to the health and safety of the residents.

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**§ 205.2. Grounds.**

(a) Grounds shall be adequate to provide necessary service areas and outdoor areas for residents. A facility with site limitations may provide rooftop or balcony areas if adequate protective enclosures are provided.

(b) Delivery areas, service yards or parking area shall be located so that traffic does not cross areas commonly used by residents.

**§ 205.3. [Reserved].**

**§ 205.4. [Reserved].**

**§ 205.5. [Reserved].**

**§ 205.6. Function of building.**

(a) No part of a building may be used for a purpose which interferes with or jeopardizes the health and safety of residents. Special authorization shall be given by the Department's Division of Nursing Care Facilities if a part of the building is to be used for a purpose other than health care.

**Interpretive Guidelines:**

The special authorization will be granted in the form of an exception. In order to determine whether to grant an exception, the Department will review the facility's proposal related to how they are going to use the building and what impact it will have on the residents in the facility. An example would be having outpatient therapy in the building.

(b) The only persons who may reside in the facility shall be residents, employees, the licensee, the administrator or members of the administrator's immediate family.

**MINIMUM PHYSICAL ENVIRONMENT STANDARDS**

**§ 205.7. Basement or cellar.**

Basements or cellars may be used for storage, laundry, kitchen, heat, electric and water equipment. Approval from the Department's Division of Nursing Care Facilities shall be secured before any area of the basement may be used for other purposes, such as physical therapy, central supply, and occupational therapy.

**Interpretive Guidelines:**

The approval will be granted in the form of an exception. In order to determine whether to grant an exception, the Department will review the facility's proposal related to what it is going to use the basement for and what impact it will have on the residents in the facility.

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### § 205.8. Ceiling heights.

Ceiling heights may be 7 feet 6 inches except in boiler rooms where a minimum of 30 inches shall be provided above the main boiler heater and connecting piping. Adequate headroom for convenient maintenance and other proposed operations shall be maintained below the piping.

### § 205.9. Corridors.

(a) Resident corridors shall have a handrail on both sides with a return to the wall at each rail ending. Handrails shall be detailed and finished for safety and shall be free from snagging. Brackets may not impede the continuous progress of hands along the railing.

(b) Corridors shall be lighted adequately during the day and night.

(c) Areas used for corridor traffic may not be considered as areas for dining, storage, diversional or social activities.

### § 205.10. Doors.

(a) Doors into bathrooms and toilet rooms used by residents shall be at least 36 inches wide, except for an existing facility where the minimum width of toilet room doors is 32 inches.

(b) A door to a resident room shall swing into the room.

(c) A door to a toilet room which swings into the toilet area shall be equipped with special hardware which permits the door to be opened from the outside, and swing out, in case of emergency.

(d) Resident and visitor toilet stall doors shall swing out. Curtains or equivalent shall be considered as meeting this requirement.

(e) A door to a basement or a cellar may not be located in a resident room.

(f) A door opening to the exterior, which may be opened occasionally for ventilation purposes, with the exception of an approved exit door, shall be effectively covered with screening.

### § 205.11. [Reserved].

### § 205.12. Elevators.

(a) Elevator service shall be provided for residents when a resident use area is located above or below the first floor or grade level entrance in a building constructed or converted for use after January 1975 as a facility providing either skilled or intermediate care.

(b) The cab platform of an elevator shall measure no less than 5 feet by 7 feet 6 inches. Cab and shaft door may have not less than a 44 inch opening and shall be power operated.

### § 205.13. Floors.

(a) Floors traveled by residents shall be of nonskid material.

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(b) Floors in the kitchen, bathroom, toilet rooms, shower rooms, utility rooms, bedpan and hopper rooms shall be of nonskid, nonabsorbent materials and easily cleanable.

**§ 205.14. Locks.**

Doors into rooms used by residents may not be locked from the outside when the resident is in the room.

**§ 205.15. [Reserved].**

**§ 205.16. Stairs.**

Stairs used by residents shall have no locked gates or free swinging doors obstructing ascent or descent.

**§ 205.17. Stairways.**

There shall be indoor stairs and stairways to a basement if the stairs are to be used by personnel of the facility.

**§ 205.18. [Reserved].**

**§ 205.19. Windows and windowsills.**

(a) Window openings in the exterior walls that are used for ventilation shall be effectively covered by screening.

(b) Rooms with windows opening onto light or air shafts, or onto an exposure where the distance between the building or an obstruction higher than the windowsill is less than 20 feet may not be used for resident bedrooms.

**§ 205.20. Resident bedrooms.**

(a) A bed for a resident shall be placed only in a bedroom approved by the Department.

**Interpretive Guidelines:**

If the resident prefers to sleep in a recliner or alternative to a bed, the recliner or alternative may be placed only in a room approved by the Department as a resident room.

(b) The maximum number of residents who may be accommodated in the facility shall be indicated on the license.

(c) The number of resident bedrooms and the number of beds in a room may not exceed the maximum number approved by the Department.

**Interpretive Guidelines:**

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If a resident prefers to sleep in a recliner or alternative to a bed, the requirement related to beds in this subsection applies to the recliner or alternative.

(d) Single bed bedrooms shall provide minimum room area clearance, in addition to the area of closets, vestibule, wardrobes and toilet rooms, of 100 square feet.

(e) Single resident bedrooms in facilities licensed prior to January 1975, shall contain at least 80 square feet of space.

(f) A multibed bedroom shall provide minimum room area clearances, in addition to the area of closets, vestibule, wardrobes and toilet rooms of 80 square feet per bed.

(g) In facilities licensed prior to January 1975, resident multibed bedrooms shall have at least 65 square feet of space per resident.

#### **§ 205.21. Special care room.**

(a) Provisions shall be made for isolating a resident as necessary in a single room which is ventilated to the outside.

(b) Provisions shall be available to identify this room with appropriate precautionary signs.

#### **§ 205.22. Placement of beds.**

A bed may not be placed in proximity to radiators, heat vents, air conditioners, direct glare of natural light or drafts unless the resident chooses to do so and the placement does not pose a safety hazard.

#### **Interpretive Guidelines:**

If a resident prefers to sleep in a recliner or alternative to a bed, the requirements related to beds in this subsection apply to the recliner or alternative.

#### **§ 205.23. Location of bedrooms.**

A resident bedroom shall have adjoining toilet facilities and shall be located conveniently near bathing facilities, except for those facilities licensed prior to January 1975.

#### **§ 205.24. Dining room.**

(a) There shall be a minimum dining area of 15 square feet per bed for the first 100 beds and 13 1/2 square feet per bed for beds over 100. This space is required in addition to the space required for lounge and recreation rooms. These areas shall be well lighted and well ventilated.

(b) Tables and space shall be provided to accommodate wheelchairs with trays and other devices.

#### **§ 205.25. Kitchen.**

(a) There shall be at least one kitchen large enough to meet the needs of the facility.

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(b) A service pantry shall be provided for each nursing unit. The pantry shall contain a refrigerator, device for heating food, sink, counter and cabinets. For existing facilities, a service pantry shall be provided for a nursing unit unless the kitchen is sufficiently close for practical needs and has been approved by the Department.

#### **§ 205.26. Laundry.**

(a) A laundry room shall be provided in a facility where commercial laundry service is not used for the washing of soiled linens.

(b) The entrance and exit to the laundry room shall be located to prevent the transportation of soiled or clean linens through food preparation, food storage or food serving areas.

(c) The facility shall have a separate room for central storage of soiled linens. The room shall be well ventilated, constructed of materials impervious to odors and moisture and easily cleaned. Soiled linens may not be transported through areas where clean linen is stored.

(d) A facility shall provide a separate room or area for central storage of clean linens and linen carts.

(e) Equipment shall be made available and accessible for residents desiring to do their personal laundry.

#### **§ 205.27. Lounge and recreation rooms.**

There shall be a minimum of 15 square feet of floor space per bed for recreation or lounge rooms provided for the first 100 beds and 13 1/2 square feet for all beds over 100. There shall be recreation or lounge rooms for residents on each floor.

#### **§ 205.28. Nurses' station.**

(a) A nurses' station shall be located in each nursing unit, located as centrally as practical within the nursing unit. A common nurses' station serving more than a single nursing unit may be permitted when the design of the project and method of operation indicate a satisfactory level of service. The size and facilities of the nurses' station shall be increased appropriate to the number of beds served and additional staffing required.

(b) The nurses' station may not be more than 120 feet from the most remote resident room served.

(c) The nurses' station shall have facilities for:

(1) A nurses' call system.

(2) Charting and supplies.

(3) Medication storage and preparation, which may be within the clean workroom, if a self-contained cabinet is provided. The medication storage cabinet shall be locked. Mechanical ventilation shall be provided in this workroom. If a medication cart is used, provisions shall be made to lock the cart or to place the cart when not in use in a safe area that can be locked. The cart may not be stored in the corridor.

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(4) A double-locked narcotic compartment within the medication area.

§ 205.29. [Reserved].

§ 205.30. [Reserved].

§ 205.31. Storage.

General storage space shall be provided for storage of supplies, furniture, equipment, residents' possessions and the like. Space provided for this purpose shall be commensurate with the needs of the nursing facility, but may not be less than 10 square feet per bed.

§ 205.32. Janitor closet.

(a) At least one janitor closet shall be provided in a unit. If physical arrangement permits, one janitor's closet may serve more than one nursing unit or wing.

(b) A separate janitor's closet is required for the kitchen.

§ 205.33. Utility room.

(a) Provisions shall be made in each nursing unit near the nurses' station for utility rooms. The area shall have separate soiled and clean workrooms. The rooms may not be more than 120 feet from the most remote room served. If one nursing station services several resident corridors, a soiled utility room shall be on each unit.

(b) Facilities for flushing and rinsing bedpans, such as a spray attachment for the clinical sink or a separate bedpan flusher, shall be provided in the soiled workroom of each nursing unit, unless bedpan flushing devices, together with bedpan lugs on toilets are provided in each resident's toilet for this purpose.

(c) Hand-washing facilities shall be available in the soiled and clean utility rooms.

§ 205.34. [Reserved].

§ 205.35. [Reserved].

§ 205.36. Bathing facilities.

(a) The facility shall provide a general bathing area in each nursing unit to serve residents' bedrooms which do not have adjoining bathrooms with a bathtub or shower.

(b) Bathing fixtures for either the tub or shower shall be provided at a ratio of one fixture per 15 beds or major fraction thereof.

(c) Unless bathing fixtures are located in a separate room, there shall be compartments to permit privacy. Cubicle curtains may provide this privacy.

(d) Each room or compartment shall provide space for the use of bathing fixtures, wheelchairs and dressing. Sufficient space shall be provided for the attendant who may need to assist the resident.

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(e) Each bathing room shall include a toilet and lavatory. If more than one tub or shower is in the bathing room, privacy shall be provided at each bathing facility and at the toilet.

(f) Showers designed for wheelchair use may be no less than 4 feet square, shall be without curbs and shall have handrails and curtains.

(g) Water controls for handicapped shower areas shall be located outside the shower stall. Other shower areas may have standard installation of shower controls.

(h) The facility shall have at least one bathtub in each centralized bath area on each floor that is accessible from three sides with a minimum of 3 feet clearance on each side and 4 feet clearance from the foot of the tub to adjacent wall or obstruction.

#### **§ 205.37. Equipment for bathrooms.**

(a) Grab bars shall be installed as necessary at each tub and shower for safety and convenience. Grab bars, accessories and anchorage shall have sufficient strength to sustain a weight of 250 pounds for 5 minutes.

(b) The general bathroom or shower room used by residents shall be provided with one emergency signal bell located in close proximity to the tub or shower and which registers at the nursing station. This is in addition to the emergency signal bell located at each toilet unless a single bell can be reached by the resident from both the toilet and tub or shower.

(c) Provisions shall be made available to get residents in and out of bathtubs in a safe way to prevent injury to residents and personnel. The facility shall provide appropriate supervision and assistance to ensure the safety of all residents being bathed.

(d) A dressing area shall be provided immediately adjacent to the shower stall and bathtub. In the dressing area, there shall be provisions for keeping clothes dry while bathing.

(e) The facility shall ensure that water for baths and showers is at a safe and comfortable temperature before the resident is bathed.

#### **§ 205.38. Toilet facilities.**

(a) In toilet rooms that adjoin resident bedrooms, there shall be at least one toilet for four residents. This shall be directly accessible from bedrooms without entering the general corridor. In no case may one toilet service more than two bedrooms. The minimum dimension of a resident toilet room containing only a toilet shall be 3 feet by 6 feet.

(b) There may be no less than 3 1/2 feet of space from front of toilet to opposite wall or fixtures.

(c) There shall be at least one toilet on each floor to accommodate residents in wheelchairs.

(d) At least one toilet room shall be provided for toilet training. This room shall be accessible from the nursing corridor and may serve the bathing area. Minimum dimensions for a toilet-training room containing only a toilet shall be 5 feet by 6 feet.

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(e) Floors or units with more than eight residents of both sexes shall be provided with separate toilet fixtures in a ratio of 1:4 or major fraction thereof for each sex. In existing facilities, overall toilet fixtures shall be provided in a ratio of 1:8 or major fraction thereof for each bed.

(f) Toilets and lavatories other than resident facilities shall be provided for male and female visitors in facilities.

**§ 205.39. Toilet room equipment.**

(a) Toilet rooms shall be provided with lavatory, soap or soap dispenser, paper towels, mechanical dryer or other sanitary means of toweling. In toilet rooms adjacent to bedrooms, the lavatory may be omitted if provided in each bedroom.

(b) Toilets used by residents shall be provided with handrails or assist bars on each side capable of sustaining a weight of 250 pounds and an emergency call bell within reaching distance.

**§ 205.40. Lavatory facilities.**

(a) A floor occupied by residents shall have lavatories in the ratio of 1:4 residents or major fraction thereof. In existing facilities, lavatory fixtures shall be provided in a ratio of 1:8 or major fraction thereof for each bed.

(b) A mirror shall be over each lavatory used by residents.

§ 205.41. [Reserved].

§ 205.42. [Reserved].

§ 205.43. [Reserved].

§ 205.44. [Reserved].

§ 205.45. [Reserved].

§ 205.46. [Reserved].

§ 205.47. [Reserved].

§ 205.48. [Reserved].

§ 205.49. [Reserved].

§ 205.50. [Reserved].

## MECHANICAL AND ELECTRICAL REQUIREMENTS

**§ 205.61. Heating requirements for existing construction.**

(a) The heating system shall comply with local and State codes. If there is a conflict, the more stringent requirements shall apply.

(b) Exposed heating pipes, hot water pipes or radiators in rooms and areas used by residents or within reach of residents, shall be covered or protected to prevent injury or burns to residents. This includes hot water or steam piping above 125°F.

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§ 205.62. [Reserved].

§ 205.63. Plumbing and piping systems required for existing construction.

- (a) Potable ice may not be manufactured or stored in the soiled utility room.
- (b) Water distribution systems shall be designed and arranged to provide potable hot and cold water at hot and cold water outlets at all times. The system pressure shall be sufficient to operate fixture and equipment during maximum demand periods.
- (c) Hot water outlets accessible to residents shall be controlled so that the water temperature of the outlets does not exceed 110°F.

§ 205.64. [Reserved].

§ 205.65. [Reserved].

§ 205.66. [Reserved].

§ 205.67. Electric requirements for existing construction.

- (a) Artificial lighting shall be restricted to electric lighting.
- (b) Spaces occupied by people, machinery and equipment within buildings shall have electric lighting which is operational at all times.
- (c) Electric lights satisfactory for residents' activities shall be available.
- (d) Electric lights in rooms used by residents shall be placed or shaded to prevent direct glare to the eyes of residents.
- (e) Night lights shall be provided in bedrooms, stairways, corridors, bathrooms and toilet rooms used by residents.
- (f) Arrangements to transfer lighting from overhead fixtures to night light fixtures in stairways and corridors shall be designed so that switches can only select between two sets of fixtures and cannot extinguish both sets at the same time.
- (g) In addition to night lights, residents' bedrooms shall have general lighting. The light emitting surfaces of the night light may not be in direct view of a resident in a normal in-bed position.
- (h) A reading light shall be provided for each resident.
- (i) In each resident room there shall be grounding type receptacles as follows: one duplex receptacle on each side of the head of each bed except for parallel adjacent beds. Only one duplex receptacle is required between beds plus sufficient duplex receptacles to supply portable lights, television and motorized beds, if used, and one duplex receptacle on another wall.

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(j) A nurse's calling station—signal originating device—with cable with push button housing attached or other system approved by the Department shall be provided at each resident bed location so that it is accessible to the resident. Two cables and buttons serving adjacent beds may be served by one station. An emergency calling station within reach of the resident shall be provided at each bathing fixture and toilet unless a single bell can be reached by the resident from both the bathing fixture and the toilet. Cable and push button housing requirement will apply to those facilities constructed after July 1, 1987.

(k) Calls shall register by a signal receiving and indicating device at the nurses' station, and shall activate a visible signal in the corridor at the resident's door. In multicorridor nursing units, additional visible signal indicators shall be installed at corridor intersections.

§ 205.68. [Reserved].

## FURNISHINGS, EQUIPMENT AND SUPPLIES

§ 205.71. Bed and furnishings.

A bed shall be equipped with a firm supporting mattress which is equal to the size of the frame and provides for the comfort and safety of the resident.

§ 205.72. Furniture.

A resident shall be provided with a drawer or cabinet in the resident's room that can be locked.

§ 205.73. [Reserved].

§ 205.74. Linen.

The facility shall have available at all times a quantity of linens essential for proper care and comfort of residents.

§ 205.75. Supplies.

Adequate supplies shall be available at all times to meet the residents' needs.

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- § 205.81. [Reserved].
- § 205.82. [Reserved].
- § 205.83. [Reserved].
- § 205.84. [Reserved].
- § 205.85. [Reserved].
- § 205.86. [Reserved].
- § 205.87. [Reserved].
- § 205.88. [Reserved].
- § 205.89. [Reserved].
- § 205.90. [Reserved].
- § 205.91. [Reserved].

## MISCELLANEOUS PROVISIONS

### § 205.101. Scope.

This chapter applies to facility construction, alteration or renovation approved by the Department before July 1, 2023.

## CHAPTER 207. HOUSEKEEPING AND MAINTENANCE STANDARDS FOR LONG-TERM CARE NURSING FACILITIES

### HOUSEKEEPING AND MAINTENANCE

- § 207.1. [Reserved].
- § 207.2. [Reserved].
- § 207.3. [Reserved].
- § 207.4. [Reserved].
- § 207.5. [Reserved].

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## CHAPTER 209. FIRE PROTECTION AND SAFETY PROGRAMS FOR LONG-TERM CARE NURSING FACILITIES.

### FIRE PROTECTION AND SAFETY

§ 209.1. [Reserved].

§ 209.2. [Reserved].

§ 209.3. Smoking.

(a) Policies regarding smoking shall be adopted. The policies shall include provisions for the protection of the rights of smoking and nonsmoking residents. The smoking policies shall be posted in a conspicuous place and in a legible format so that they may be easily read by residents, visitors and staff.

(b) [Reserved].

(c) Adequate supervision while smoking shall be provided for those residents who require it.

(d) Smoking by residents in bed is prohibited unless the resident is under direct observation.

(e) [Reserved].

(f) [Reserved].

(g) [Reserved].

§ 209.4. [Reserved].

§ 209.5. [Reserved].

§ 209.6. [Reserved].

§ 209.7. [Reserved].

§ 209.8. [Reserved].

## CHAPTER 211. PROGRAM STANDARDS FOR LONG-TERM CARE NURSING FACILITIES.

§ 211.1. Reportable diseases.

(a) When a resident develops a reportable disease, the administrator shall report the information to the appropriate health agencies and appropriate Division of Nursing Care Facilities field office. Reportable diseases, infections and conditions are listed in § 27.21a (relating to reporting of cases by health care practitioners and health care facilities).

(b) Cases of scabies, lice or bed bug infestations shall be reported to the appropriate Division of Nursing Care Facilities field office.

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(c) Significant nosocomial outbreaks, as determined by the facility's medical director, Methicillin Resistant Staphylococcus Aureus (MRSA), Vancomycin-Resistant Staphylococcus Aureus (VRSA), Vancomycin-Resistant Enterocci (VRE) and Vancomycin-Resistant Staphylococcus Epidermidis (VRSE) shall be reported to the appropriate Division of Nursing Care Facilities field office.

## § 211.2. Medical director.

(a) [Reserved].

(b) [Reserved].

(c) In addition to the requirements of 42 CFR 483.70(h) (relating to administration), the medical director of a facility shall be licensed as a physician in this Commonwealth and shall complete at least four hours annually of continuing medical education (CME) pertinent to the field of medical direction or post-acute and long-term care medicine. The medical director may be designated for single or multiple facilities. There shall be a written agreement between the physician and the facility.

### Interpretive Guidelines

Acceptable proof of CME would be copies of the CME certificate or a registration/attendance confirmation form.

(d) The medical director's responsibilities shall include at least the following:

(1) [Reserved].

(2) [Reserved].

(3) Ensuring the appropriateness and quality of medical care and medically related care.

(4) Assisting in the development of educational programs for facility staff and other professionals.

(5) Working with the facility's clinical team to provide surveillance and develop policies to prevent the potential infection of residents in accordance with the infection control requirement under 42 CFR 483.80 (relating to infection control).

(6) Cooperating with facility staff to establish policies for assuring that the rights of individuals are respected.

(7) Supporting and promoting person-directed care such as the formation of advance directives, end-of-life care, and provisions that enhance resident decision making, including choice regarding medical care options.

(8) Identifying performance expectations and facilitating feedback to physicians and other health care practitioners regarding their performance and practices.

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(9) Discussing and intervening, as appropriate, with a health care practitioner regarding medical care that is inconsistent with current standards of care.

(10) Assisting in developing systems to monitor the performance of health care practitioners, including mechanisms for communicating and resolving issues related to medical care and ensuring that other licensed practitioners who may perform physician-delegated tasks act within their scope of practice.

### § 211.3. Verbal and telephone orders.

(a) Verbal and telephone orders shall be given to a registered nurse, physician or other individual authorized by appropriate statutes and the State Boards in the Bureau of Professional and Occupational Affairs and shall immediately be recorded on the resident's clinical record by the person receiving the order. The entry shall be signed and dated by the person receiving the order.

(b) Verbal and telephone orders for care and treatment shall be dated and countersigned with the original signature of the physician, or physician's delegee authorized under 42 CFR 483.30(e) (relating to physician services), within 72 hours of receipt of the order.

(c) Verbal and telephone orders for medications shall be dated and countersigned by the prescribing physician, or physician's delegee authorized under 42 CFR 483.80(e), within 48 hours.

(d) Verbal orders for care, treatment or medication shall be accepted only under circumstances where it is impractical for the orders to be given in a written manner by the physician, or physician's delegee authorized under 42 CFR 483.30(e). An initial written order as well as a countersignature may be sent by a fax or secure electronic transmission which includes the practitioner's signature.

(e) The facility shall establish policies identifying the types of situations for which verbal orders may be accepted and the appropriate protocols for the taking and transcribing of verbal orders in these situations, which shall include:

(1) Identification of all treatments or medications which may not be prescribed or dispensed by way of a verbal order, but which instead require written orders.

(2) A requirement that all verbal orders be stated clearly, repeated by the issuing physician, or physician's delegee authorized under 42 CFR 483.30(e), and be read back in their entirety by personnel authorized to take the verbal order.

(3) Identification of all personnel authorized to take and transcribe verbal orders.

(4) The policy on fax or secure electronic transmissions.

### § 211.4. Procedure in event of death.

(a) Written postmortem procedures shall be available to all personnel.

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(b) Documentation shall be on the resident's clinical record that the next of kin, guardian or resident representative has been notified of the resident's death. The name of the notified party shall be written on the resident's clinical record.

#### § 211.5. Medical records.

(a) [Reserved].

(b) Information contained in a resident's record shall be privileged and confidential. Written consent of the resident or the resident representative is required for release of information, except as follows:

(1) Written consent is not necessary for authorized representatives of the Federal and State government during the conduct of their official duties.

(2) Written consent is not necessary for the release of medical records for treatment purposes in accordance with Federal and State law.

(c) [Reserved].

(d) Records of discharged residents shall be completed within 30 days of discharge. Medical information pertaining to a resident's stay shall be centralized in the resident's record.

(e) When a facility closes, resident medical records may be transferred with the resident if the resident is transferred to another health care facility. Otherwise, the owners of the facility shall make provisions for the safekeeping and confidentiality of resident medical records and shall provide to the Department, within 30 days of providing notice of closure under § 201.23 (relating to closure of facility), a plan for the storage and retrieval of medical records.

(f) In addition to the items required under 42 CFR 483.70(i)(5) (relating to administration), a resident's medical record shall include at a minimum:

- (i) Physicians' orders.
- (ii) Observation and progress notes.
- (iii) Nurses' notes.
- (iv) Medical and nursing history and physical examination reports.
- (v) Admission data.
- (vi) Hospital diagnoses authentication.
- (vii) Report from attending physician or transfer form.
- (vii) Diagnostic and therapeutic orders.
- (viii) Reports of treatments.
- (ix) Clinical findings.
- (x) Medication records.

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(xi) Discharge summary, including final diagnosis and prognosis or cause of death.

(g) [Reserved].

(h) [Reserved].

(i) The facility shall assign overall supervisory responsibility for the medical record service to a medical records practitioner. Consultative services may be utilized; however, the facility shall employ sufficient personnel competent to carry out the functions of the medical record service.

#### **§ 211.6. Dietary services.**

(a) Menus shall be planned and posted in the facility or distributed to residents at least 2 weeks in advance. Records of menus of foods actually served shall be retained for 30 days. When changes in the menu are necessary, substitutions shall provide equal nutritive value.

(b) [Reserved].

(c) [Reserved].

(d) [Reserved].

(e) [Reserved].

(f) Dietary personnel shall practice hygienic food handling techniques. Employees shall wear clean outer garments, maintain a high degree of personal cleanliness and conform to hygienic practices while on duty. Employees shall wash their hands thoroughly with soap and water before starting work, after visiting the toilet room and as often as necessary to remove soil and contamination.

#### **§ 211.7. Physician assistants and certified registered nurse practitioners.**

(a) [Reserved].

(b) If the facility utilizes the services of physician assistants or certified registered nurse practitioners, the following apply:

(1) [Reserved].

(2) There shall be a list posted at each workstation of the names of the supervising physician and the persons, and titles, whom they supervise.

(3) A copy of the supervising physician's registration from the State Board of Medicine or State Board of Osteopathic Medicine and the physician assistant's or certified registered nurse practitioner's certificate shall be available in the facility.

(4) A notice plainly visible to residents shall be posted in prominent places in the institution explaining the meaning of the terms "physician assistant" and "certified registered nurse practitioner."

(c) [(Reserved)].

(d) [Reserved].

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(e) [Reserved].

### § 211.8. Use of restraints.

(a) [Reserved].

(b) [Reserved].

(c) [Reserved].

(c.1) If restraints are used, a facility shall use the least restrictive method for the least amount of time to safely and adequately respond to individual resident needs in accordance with the resident's comprehensive assessment and comprehensive care plan. The following shall apply:

(1) When a recurring restraint is ordered, the facility shall document the need for the restraint and the personnel responsible for performing the intervention on each shift.

(2) A facility shall document the type of restraint and each time a restraint is used or removed.

(3) In determining the least restrictive method for the least amount of time, the following minimums apply:

(i) Physical restraints shall be removed at least 10 minutes out of every 2 hours during normal waking hours to allow the resident an opportunity to move and exercise.

(ii) During normal waking hours, the resident's position shall be changed at least every 2 hours.

(d) An order from a physician, or physician's delegee authorized under 42 CFR 483.30(e) (relating to physician services), shall be required for a restraint.

(e) The physician, or physician's delegee authorized under 42 CFR 483.30(e), shall document the reason for the initial restraint order and shall review the continued need for the use of the restraint order by evaluating the resident. If the order is to be continued, the order shall be renewed by the physician, or physician's delegee authorized under 42 CFR 483.30(e), in accordance with the resident's total program of care.

(f) Every 30 days, or sooner if necessary, the interdisciplinary team shall review and reevaluate the use of all restraints ordered by a physician, or physician's delegee authorized under 42 CFR 483.30(e),.

### § 211.9. Pharmacy services.

(a) Facility policies shall ensure that:

(1) Facility staff involved in the administration of resident care shall be knowledgeable of the policies and procedures regarding pharmacy services including medication administration.

(2) [Reserved].

(b) Facility policies shall ensure that medications are administered by authorized persons as indicated in § 201.3 (relating to definitions).

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(c) Medications and biologicals shall be administered by the same licensed person who prepared the dose for administration and shall be given as soon as possible after the dose is prepared.

(d) Medications, both prescription and non-prescription, shall be administered under the orders of the attending physician, or the physician's delegee authorized under 42 CFR 483.30(e) (relating to physician services).

(e) [Reserved].

(f) Residents shall be permitted to purchase prescribed medications from the pharmacy of their choice. If the resident does not use the pharmacy that usually services the facility, the resident is responsible for securing the medications and for assuring that applicable pharmacy regulations and facility policies are met. The facility:

(1) Shall notify the resident or the resident representative, at admission and as necessary throughout the resident's stay in the facility, of the right to purchase medications from a pharmacy of the resident's choice as well as the resident's and pharmacy's responsibility to comply with the facility's policies and State and Federal laws regarding packaging and labeling requirements.

(2) Shall have procedures for receipt of medications from outside pharmacies including requirements for ensuring accuracy and accountability. Procedures shall include the review of medications for labeling requirements, dosage and instructions for use by licensed individuals who are authorized to administer medications.

(3) Shall ensure that the pharmacist or pharmacy consultant will receive a monthly resident medication profile from the selected pharmacy provider.

(4) Shall have a policy regarding the procurement of medications in urgent situations. Facilities may order a 7-day supply from a contract pharmacy if the resident's selected pharmacy is not able to comply with these provisions.

(g) [Reserved].

(h) [Reserved].

(i) [Reserved].

(j) [Reserved].

(j.1) The facility shall have written policies and procedures for the disposition of medications that address all of the following:

(1) Timely and safe identification and removal of medications for disposition.

(2) Identification of storage methods for medications awaiting final disposition.

(3) Control and accountability of medications awaiting final disposition consistent with standards of practice.

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(4) Documentation of actual disposition of medications to include the name of the individual disposing of the medication, the name of the resident, the name of the medication, the strength of the medication, the prescription number if applicable, the quantity of medication and the date of disposition.

(5) A method of disposition to prevent diversion or accidental exposure consistent with applicable Federal and State requirements, local ordinances and standards of practice.

(k) The oversight of pharmaceutical services shall be the responsibility of the quality assurance committee. Arrangements shall be made for the pharmacist responsible for the adequacy and accuracy of the services to have committee input. The quality assurance committee, with input from the pharmacist, shall develop written policies and procedures for drug therapy, distribution, administration, control, accountability and use.

(l) A facility shall have at least one emergency medication kit that is readily available to staff. The kit used in the facility shall be governed by the following:

(1) The facility shall have written policies and procedures pertaining to the use, content, storage, security, refill of and inventory tracking for the kits.

(2) The quantity and categories of medications and equipment in the kits shall be based on the immediate needs of the facility and criteria for the contents of the emergency medication kits shall be reviewed not less than annually.

(3) The emergency medication kits shall be under the control of a practitioner authorized to dispense or prescribe medications under the Pharmacy Act (63 P.S. §§ 390-1—390-13).

(4) [Reserved].

#### § 211.10. Resident care policies.

(a) Resident care policies shall be available to admitting physicians, sponsoring agencies, residents and the public and shall reflect an awareness of, and provision for, meeting the total medical, nursing, mental and psychosocial needs of residents.

(b) The policies shall be reviewed at least annually and updated as necessary.

(c) The policies shall be designed and implemented to ensure that each resident receives treatments, medications, diets and rehabilitative nursing care as prescribed.

(d) The policies shall be designed and implemented to ensure that the resident receives proper care to prevent pressure sores and deformities; that the resident is kept comfortable, clean and well-groomed; that the resident is protected from accident, injury and infection; and that the resident is encouraged, assisted and trained in self-care and group activities.

#### § 211.11. [Reserved].

#### § 211.12. Nursing services.

(a) [Reserved].

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- (b) There shall be a full-time director of nursing services who shall be a qualified licensed registered nurse.
  
- (c) The director of nursing services shall have, in writing, administrative authority, responsibility and accountability for the functions and activities of the nursing services personnel and shall serve only one facility in this capacity.
  
- (d) The director of nursing services shall be responsible for:
  - (1) Standards of accepted nursing practice.
  - (2) Nursing policy and procedure manuals.
  - (3) Methods for coordination of nursing services with other resident services.
  - (4) Recommendations for the number and levels of nursing services personnel to be employed.
  - (5) General supervision, guidance and assistance for a resident in implementing the resident's personal health program to assure that preventive measures, treatments, medications, diet and other health services prescribed are properly carried out and recorded.
  
- (e) The facility shall designate a charge nurse who is responsible for overseeing total nursing activities within the facility on each tour of duty each day of the week.
  
- (f) [Reserved].
  
- (f.1) In addition to the director of nursing services, a facility shall provide all of the following:
  - (1) Nursing services personnel on each resident floor.
  - (2) Effective July 1, 2023, a minimum of 1 nurse aide per 12 residents during the day, 1 nurse aide per 12 residents during the evening, and 1 nurse aide per 20 residents overnight.
  - (3) Effective July 1, 2024, a minimum of 1 nurse aide per 10 residents during the day, 1 nurse aide per 11 residents during the evening, and 1 nurse aide per 15 residents overnight.
  - (4) Effective July 1, 2023, a minimum of 1 LPN per 25 residents during the day, 1 LPN per 30 residents during the evening, and 1 LPN per 40 residents overnight.
  - (5) Effective July 1, 2023, a minimum of 1 RN per 250 residents during all shifts.
  
- (f.2) To meet the requirements of subsections (f.1)(2) through (5):
  - (1) A facility may substitute an LPN or RN for a nurse aide but may not substitute a nurse aide for an LPN or RN
  - (2) A facility may substitute an RN for an LPN.
  - (3)(i) A facility may not substitute an LPN for an RN except as provided under subparagraph (ii).

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(ii) A facility with a census of 59 or under may substitute an LPN for an RN on the overnight shift only if an RN is on call and located within a 30-minute drive of the facility.

(g) [Reserved].

(h) [Reserved].

### **Interpretive Guidelines:**

Compliance with staffing ratios will be measured as full-time equivalents (FTE).

A full-time equivalent is determined by the number of hours in an 8-hour shift multiplied by the census for that shift. For example, if there are 30 residents, the full-time equivalent requirement would be 30 divided by 12 resulting in 2.5 FTE required as minimum nurse aides for the morning shift. 2.5 FTE equates to 20 staff hours. The total number of hours worked by a nurse aide must equal or exceed 20 hours for that shift.

Providers may overlap shifts to meet this requirement but at all times ensure that there are no times during the shift that there is not a nurse aide, LPN and RN on-site adequate to meet the needs of the residents.

If a facility has shifts other than 7.5 or 8, the staff hours will need to be split across shifts to reflect the three shifts designated in the regulations. For example, if the facility uses 12-hour shifts, 8 of the staff hours would apply to the first shift, and the remaining 4 to the second shift.

(i) A minimum number of general nursing care hours shall be provided for each 24-hour period as follows:

(1) Effective July 1, 2023, the total number of hours of general nursing care provided in each 24-hour period shall, when totaled for the entire facility, be a minimum of 2.87 hours of direct resident care for each resident.

(2) Effective July 1, 2024, the total number of hours of general nursing care provided in each 24-hour period shall, when totaled for the entire facility, be a minimum of 3.2 hours of direct resident care for each resident.

(i.1) Only direct resident care provided by nursing service personnel may be counted towards the total number of hours of general nursing care required under subsection (i).

### **Interpretive Guidelines:**

PPD is calculated by adding the total number of staff hours for the 24-hour period and dividing by the number of residents.

There are some staff that might be considered nursing personnel, but do not count toward the total PPD. Examples of staff that do not count include orientees, light duty nursing staff, RNAC's, hospice staff, private caregivers, feeding assistants, student nurses, and unit clerks (even if they are nurse aides).

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Examples of personnel that can be counted include:

- Light duty nursing staff if they are providing direct care such as nail care, feeding or 1:1.
- Lunch times can be counted if “on duty” (physically present & able to personally provide nursing care when needed).

Nursing staff that accompany residents on appointments should be counted.

Nursing managers who do not normally perform direct care but are needed because of call offs should keep a record of tasks performed for that given day and the amount of time spent performing those tasks as proof of the hours worked. Those recorded hours may be counted towards the minimum hours PPD for that day.

(j) [Reserved].

(k) [Reserved].

(l) [Reserved].

§ 211.13. [Reserved].

§ 211.14. [Reserved].

§ 211.15. Dental services.

In addition to the requirements in 42 CFR 483.55 (relating to dental services), a facility shall make provisions to assure that resident dentures are retained by the resident. Dentures shall be marked for each resident.

§ 211.16. Social services.

(a) A facility shall employ a qualified social worker on a full-time basis except:

(1) A facility with 26 to 59 beds may employ a part-time qualified social worker if the facility assessment indicates that a full-time qualified social worker is not needed.

(2) A facility with 25 beds or less may either employ a part-time qualified social worker or share the services of a qualified social worker with another facility.

(b) [Reserved].

§ 211.17. Pet therapy.

If pet therapy is utilized, a facility shall have written policies and procedures to ensure all of the following:

(1) Animals are not permitted in the kitchen or other food service areas, dining rooms when meals are being served, utility rooms and rooms of residents who do not want animals in their rooms.

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(2) Careful selection of types of animals is made so the animals are not harmful or annoying to residents.

(3) The number and types of pets are restricted according to the layout of the building, type of residents, staff and animals.

(4) Animals are carefully selected to meet the needs of the residents involved in the pet therapy program.

(5) [Reserved].

(5.1) Animals are up to date on vaccinations, are in good health and do not pose a risk to the health and safety of residents.

(6) Animals and places where they reside or visit are kept clean and sanitary.

(7) Infection prevention and control measures, such as hand hygiene, are followed by residents and personnel when handling animals.

§ 211.18. [Reserved].

§ 211.19. [Reserved].

§ 211.20. [Reserved].

§ 211.21. [Reserved].

§ 211.22. [Reserved].