

Providers

Department of Health Division of Nursing Care Facilities Licensure Regulation Updates 2023

Objectives

- Participants will have a general understanding of the updated LTC licensure regulations
- Participants will be able to define the areas of changes
- Participants will be able to define what needs to be documented to demonstrate compliance with various requirements of new state nursing facility licensure regulations
- Participants will understand the intended benefits to residents in incorporating their involvement in appropriate areas of compliance (such as policies on Resident Rights and the Facility Assessment)

Timetable of Effective Dates

New Requirements	Effective Date	Citation
<p>All new requirements with the exception of those listed below.</p> <p>Includes the first stepped increase in staffing minimums found in §211.12.</p>	<p>July 1, 2023</p>	
<p>Applicants for licensure for new facilities must provide notice to the State LTC Ombudsman when applying for a license. Applicants for licensure from a change in ownership must additionally provide notice to facility staff and residents.</p>	<p>February 1, 2023</p>	<p>§201.12a(a) and (c)(1)-(3)</p>
<p>Changes to the application for licensure for new facilities change of ownership; Additional information and documentation required; Posting of the application on the DOH website; Establishment of public comment period on applications; Requirement for audited annual financial reports for license renewal.</p>	<p>October 31, 2023</p>	<p>§201.12, §201.12b, §201.13c(b) and (c), 201.12a(c)(4) and (d)</p>
<p>Second and final stepped increase in staffing minimums found in §211.12.</p>	<p>July 1, 2024</p>	<p>§211.12 (f.1) and (i)</p>

Effective February 1, 2023

§ 201.12a. Notice and opportunity to comment.

(a) In addition to the requirements in § 201.12 (relating to application for license of a new facility or change in ownership), a prospective licensee of a new facility shall concurrently provide written notice to the office of the state long-term care ombudsman when the prospective licensee submits its application.

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

- (1) Residents of the facility being purchased or acquired, and their resident representatives.
- (2) Employees of the facility being purchased or acquired.
- (3) The office of the state long-term care ombudsman.

(c) The written notice shall provide 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.

July 1, 2023

All new requirements with the exception of those listed below.

- ▀ Changes to the application for licensure for new facilities change of ownership; Additional information and documentation required; Posting of the application on the DOH website; Establishment of public comment period on applications; Requirement for audited annual financial reports for license renewal.

§201.12, §201.12b, §201.13c(b) and (c), 201.12a(c)(4) and (d)

*Includes the first stepped increase in staffing minimums found in §211.12.

§ 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.**

§ 201.3. Definitions.

Several updates were made to bring definitions to current terms as well as align with Federal and/or OAPSA definitions.

Ownership and Management Effective 10/31/2023

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

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

In addition to the application and fee

A prospective licensee must submit the following:

(b)(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, 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.

In addition to the application and fee (cont)

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

In addition to the application and fee (cont)

(7) The names, addresses, e-mail addresses and phone numbers of the following:

(i) A parent company.

(ii) A shareholder.

(iii) A related party of the persons identified in paragraphs (1) through (6).

(8) An annual financial report which shall include the following:

(i) Audited financial statements prepared in accordance with generally accepted accounting principles (GAAP). If GAAP requires consolidated financial statements, then consolidated statements shall be provided.

(ii) A visual representation of the current ownership structure, which 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.

In addition to the application and fee (cont)

(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.

(10) The prospective licensee's licensing and regulatory history in all jurisdictions where the prospective licensee has or has had a direct or indirect ownership interest of 5% or more in a facility.

(11) A detailed summary of adjudicated or settled civil actions or criminal actions filed against the prospective licensee.

(12) A list of any persons, identified in paragraph (1), who have experienced financial distress that resulted in a bankruptcy, receivership, assignment, debt consolidation or restructuring, mortgage foreclosure, corporate integrity agreement, or sale or closure of a long-term care nursing facility, the land it sits on or the building in which it is located.

(13) Identification of whether an immediate family member relationship exists between a prospective licensee, a person under paragraph (1) and a person under paragraph (7).

(14) Any additional information the department may require.

(c) For the purposes of subsection (b), a "related party" is a person that provides a service, facility or supply to a long-term care nursing facility or that is under common ownership or control, as defined in 42 CFR 413.17(b) (relating to cost to related organizations). The term includes the following:

(1) A home office.

(2) A management organization.

(3) An owner of real estate.

(4) An entity that provides staffing, therapy, pharmaceutical, marketing, administrative management, consulting, insurance or similar services.

(5) A provider of supplies and equipment.

(6) A financial advisor or consultant.

(7) A banking or financial entity.

(8) A parent company, holding company, or sister organization.

In addition to the application and fee (cont)

(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.

(2) A proposed training plan for staff.

(3) A proposed emergency preparedness plan that meets the requirements of 42 CFR 483.73(a) (relating to emergency preparedness).

(4) Proposed standard admissions agreements.

(5) A detailed budget for 3 years of operations, prepared in accordance with GAAP, and evidence of access to sufficient capital needed to operate the facility in accordance with the budget and the facility assessment conducted under 42 CFR 483.70(e) (relating to administration).

(f) A prospective licensee who fails, under this section, to demonstrate capacity to operate a facility, will be given 30 days from the date of the denial of an application to cure the application. A prospective licensee will be permitted one opportunity, under this subsection, in which to cure the application

§ 201.12a. Notice and opportunity to comment.

(a) In addition to the requirements in § 201.12 (relating to application for license of a new facility or change in ownership), a prospective licensee of a new facility shall concurrently provide written notice to the office of the state long-term care ombudsman when the prospective licensee submits its application.

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

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

Employees of the facility being purchased or acquired.

The office of the state long-term care ombudsman.

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

The name and address of the facility.

The name and address of the prospective licensee.

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. Effective 10/31/23

- (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.
- (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).

§ 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).

201.13 Licenses

§ 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.

§ 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.

201.13 Licenses (Cont)

§ 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.

§ 201.14. Responsibility of licensee.

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

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

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

(d) **(Reserved).**

(e) **(Reserved).**

§ 201.14. Responsibility of licensee.

- (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 and program occupancy **and any other** information as the Department may request. **The department will provide advance notice of new reporting requirements, except in instances of an emergency.**
- (i) **The facility shall have on file the most recent inspection reports, relating to the health and safety of residents, indicating compliance with applicable Federal, State and local statutes and regulations. Upon request, the facility shall make the most recent report available to interested persons.**
- (j) **The facility shall conduct a facility-wide assessment that meets the requirements of 42 CFR 483.70(e) (relating to administration), as necessary, but at least quarterly.**

§ 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).**

§ 201.15. Restrictions on license (Cont)

§ 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:

Requiring a plan of correction.

Issuance of a provisional license.

License revocation.

Appointment of a temporary manager.

Limitation or suspension of admissions to the facility.

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)).

§ 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.

§ 201.18. Management.

(a) (Reserved).

(b) In addition to the requirements under 42 CFR 483.70(d) (relating to administration), the governing body of a facility shall adopt and enforce rules relative to:

(1) The health care and safety of the residents.

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

(3) The general operation of the facility.

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

§ 201.18. Management.

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

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

- (1) The Department is informed of this arrangement .
- (2) There is a plan in the event of an emergency when the administrator is not working .
- (3) There is a readily available method for residents and resident representatives to contact the administrator should they find it necessary.
- (4) The director of nursing services has, at a minimum, knowledge and experience of the facility, its policies and procedures and resident needs to compensate for the time the administrator is not in the building.
- (5) The sharing of an administrator shall be limited to two facilities.

§ 201.18. Management.

(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.

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

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

(3) Maintaining an ongoing relationship with the governing body, medical and nursing staff and other professional and supervisory staff through meetings and reports, occurring as often as necessary, but at least on a monthly basis.

(4) Studying and acting upon recommendations made by committees.

(5) Appointing, in writing and in concurrence with the governing body, a responsible employee to act on the administrator's behalf during temporary absences.

(6) Assuring that appropriate and adequate relief personnel are utilized for those necessary positions vacated either on a temporary or permanent basis.

(7) Developing a written plan to assure the continuity of resident care and services in the event of a strike in a unionized facility.

§ 201.18. Management.

(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).

§ 201.19. Personnel policies and procedures.

(5) Records relating to a medical exam, if required by a facility, or attestation that the employee is able to perform the employee's job duties.

(6) Documentation of the employee's orientation to the facility and the employee's assigned position prior to or within 1 week of the employee's start date.

(7) Documentation of the employee's completion of required trainings under this chapter, including documentation of orientation and other trainings.

(8) A copy of the final report received from the Pennsylvania State Police and the Federal Bureau of Investigation, as applicable, in accordance with the Older Adults Protective Services Act (35 P. S. §§ 10225.101–10225.5102), the Adult Protective Services Act (35 P.S. §§ 10210.101–10210.704), and applicable regulations.

(9) In the event of a conviction prior to or following employment, documentation that the facility determined the employee's suitability for initial or continued employment in the position to which the employee is assigned. "Suitability for employment" shall include a review of the offense; the length of time since the individual's conviction; the length of time since incarceration, if any; evidence of rehabilitation; work history; and the employee's job duties.

(10) The employee's completed employment application.

§ 201.20. Staff development.

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

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

§ 201.20. Staff development.

(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.

§ 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.

§ 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:

§ 201.23. Closure of facility

(c.1) The facility shall develop a closure plan that includes 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).

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(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:

- (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.

Providing residents and resident representatives, if applicable, with information or access to information regarding providers and services.

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(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 .

(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.

§ 201.23. Closure of facility.

(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 Pennsylvania Department of Human Services.

(c.4) The written notice provided under subsections (c.2) and (c.3) shall contain the following:

- (1) The date of the proposed closure.
- (2) Contact information for the facility representative delegated to respond to questions about the closure.
- (3) Contact information for the office of the state long-term care ombudsman program.
- (4) The transfer and relocation plan of residents.

§ 201.23. Closure of facility.

- (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 the closure of the facility.**

§ 201.24. Admission policy.

(a) The resident may be permitted to name a responsible person. 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.

§ 201.24. Admission policy.

(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.

§ 201.24. Admission policy.

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

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

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

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

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

§ 201.26. 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 ; 1381 -1385) and applicable regulations.

§ 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 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.

§ 201.29. Resident rights.

(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 (relating to resident rights).

(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.

§ 201.29. Resident rights.

(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.

§ 201.29. Resident rights.

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

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

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

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

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

Chapter 204

Physical Environment and Equipment Standards for Construction, Alteration or Renovation of LTC 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.
- (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 one 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 ~~before~~ 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 .

(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.
- (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.

§ 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.

(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.

(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
MINIMUM PHYSICAL ENVIRONMENT STANDARDS
MECHANICAL AND ELECTRICAL REQUIREMENTS
FURNISHINGS, EQUIPMENT AND SUPPLIES**

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

all sections reserved

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.

§ 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.
- (c) Significant nosocomial outbreaks, as determined by the facility's medical director, Methicillin Resistant Staphylococcus Aureus (MRSA), Vancomycin-Resistant Staphylococcus Aureus (VRSA), Vancomycin-Resistant Enterococci (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.

§ 211.2. Medical Director.

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

(1)&(2) are 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.

(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.**

§ 211.3. Verbal and telephone orders.

(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 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**.
- (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 State and Federal 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.

§ 211.5. Medical records.

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

§ 211.5. Medical records.

(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).

(e) (Reserved).

§ 211.8. Use of restraints.

(a)-(c) are 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.

§ 211.8. Use of restraints.

(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) A signed, dated, written physician order shall be required for a restraint. This includes the use of chest, waist, wrist, ankle, drug or other form of restraint. The order shall include the type of restraint to be used.

(e) The physician 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 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 physicians.

§ 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).

(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).**

§ 211.9. Pharmacy 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.

§ 211.9. Pharmacy services.

(g) -(j) are 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.
- (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.

§ 211.9. Pharmacy services.

(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 kit 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)**.

(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.

§ 211.12. Nursing services.

(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.

§ 211.12. Nursing services.

(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).

(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).

§ 211.12. Nursing services.

- (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).
- (j)-(l) are 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.
- (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].

Questions?



RA-DHLTCregs@pa.gov