November 23, 2020

Dr. Rachel Levine, Secretary
Pennsylvania Department of Health
Health and Welfare Building
8th Floor West
625 Forster Street
Harrisburg, PA 17120

Sent via E-mail: ralevine@pa.gov

Re: Recommendations to Improve Pennsylvania’s Nursing Facility Regulations

Dear Secretary Levine,

We are writing to urgently request that our enclosed nursing facility licensing regulations recommendations be considered prior to the publication of proposed regulations. Nearly 63,762 Pennsylvanians are currently residents of roughly 690 licensed nursing homes. These residents are among our most vulnerable citizens, and they rely on the protections provided by government licensing regulations and inspections of the facilities where they live. As we know, the Pennsylvania Department of Health (DOH) serves as the state survey agency and is thus responsible for inspecting nursing homes and ensuring that each facility meets both federal and state standards, as well as for ensuring that complaints are received, investigated and resolved. DOH’s nursing facility regulations have not been updated since the 1990s, and we understand that the Department is working to update and revise its nursing facility licensing regulations.

Updates to Pennsylvania’s nursing home regulations were necessary before the coronavirus pandemic, and as we journey through the ninth month of this public health crisis, the pandemic has shone an even brighter light on the holes and inconsistencies that currently exist in our nursing home regulations. Presently, many portions are outdated, other provisions do not comport with current best practices, and perhaps most importantly, some provisions do not comply with current minimum federal nursing facility regulations.

Since we believe that much of the regulation review process took place prior to the pandemic – in which nursing homes became ground zero for COVID-19 – we strongly believe that revisions should be considered in light of what we have learned in the past eight months. To this end, we describe in this document recommendations for revision of these licensing regulations that we find critical. We are providing these recommendations both in this cover letter and in a track-changes, marked up version of the existing regulations. These two documents should be read together.
Terminology: There are several terms that we recommend revising or adding to be consistent with federal standards and with current best policy practices. For example, the references to individuals who reside in nursing facilities as “patients” is antiquated and should be replaced with “residents”.

Recommendations

201.2 – Requirements
There are cross-references to sections that are incorrect or that no longer exist. We recommend that this section should be checked and updated.

201.3 – Definitions
1) The definition of “abuse” neither mirrors the federal definition nor the state definition contained in state protective services laws. The definition should be revised and made compliant with the federal definition and consistent with the state protective services laws.
2) We recommend the addition of definitions for:
   - Exploitation
   - Intimidation
   - Long-term care ombudsman
   - Neglect
   - Person-Centered Care
   - Resident Representative
   - Serious bodily injury
   - Sexual abuse
3) And we recommend revision to the Interdisciplinary team definition, to reflect person-centeredness.

201.11 – 201.19 - Ownership and Management
Many national and local news articles, studies, and investigations have revealed the serious problems that have occurred in Pennsylvania and throughout the nation as a result of the sale of nursing facilities to private equity and other investors who have little medical or long-term care background and a primary goal of maximizing their short-term profits. See, e.g., https://www.nytimes.com/2020/05/07/business/coronavirus-nursing-homes.html.

Here in Pennsylvania, Skyline Healthcare LLC received a license in 2017 to operate facilities formerly owned by Golden Living after that provider was sued by the state Attorney General for consumer fraud claims stemming from understaffing and poor care. Just 14 months later, the Commonwealth had to install temporary management in these facilities after Skyline experienced a financial collapse that left residents at risk. This is far from the only instance in which the sale of Pennsylvania facilities to investors have led rapidly to staffing cuts and dramatic declines in quality of care. It is clear from these experiences that the regulations regarding nursing facility ownership, licensing and management must be revised to ensure that license applicants are much more thoroughly vetted and that licenses are only approved for applicants that demonstrate the capacity to consistently meet licensing regulations and provide quality care. The Long-Term Care Community Coalition in New York recently released a report entitled “Meaningful Safeguards: Promising Practices & Recommendations for Evaluating Nursing Home Owners”, which explores this problem and describes promising state practices to achieve this. See https://nursinghome411.org/evaluating-nursing-home-owners/.
It is of critical importance that the Department do a thorough review of every application to evaluate the applicant’s performance history, capability, and readiness to provide high quality care in a fully compliant manner. To bring badly needed transparency and input to this process, we strongly urge the Department to follow the lead of states such as Massachusetts by requiring applicants to issue public notice that they are seeking a nursing facility license and considering public comment prior to issuance of a license. Outdated licensure application fees must be updated and, at a minimum, made to be annual fees with amounts that get adjusted for inflation to support licensing activities.

Facility operation and compliance expectations must be detailed. In accordance with federal regulations, governing bodies must be required. Facility policies and procedures must be pre-reviewed to ensure the facility is prepared for successful implementation of all requirements.

Federally mandated facility assessments are required to identify the present staffing, equipment, supply, and other needs of the facility. Since it is critically important for a facility and the state to understand each facility’s actual, determined needs, we urge that facilities be required to conduct facility assessments quarterly.

**201.20 - Staff Development**
We recommend revising this section to specify initial orientation topics for all staff as well as specific topics for orientation of direct care staff. It should also be revised to require that initial orientation be completed prior to independent work with residents and include a requirement of demonstrating competency. The section outlines more specific details about ongoing training topics and minimum hours in excess of what is required for annual training of personal care home staff.

**201.22a., 201.22b., and 201.22c. - Prevention, control and surveillance of COVID-19 and other infection viruses or diseases**
These are three new sections that we recommend the Department add to the regulations related to responding to COVID-19 and other outbreaks or pandemics. Additionally, we recommend adding language detailing a requirement that facilities develop, adopt, and implement Emergency, Pandemic, and Disaster Preparedness Plans, specifically tailored to the facility and its residents.

**201.23 - Closure of facility**
We add essential requirements around notifying residents and the Long-Term Care Ombudsman Program.

**201.24 - Admission policy**
We add important language that protects residents’ family members who are not otherwise legally responsible from being coerced or tricked into assuming personal liability for nursing home bills. Additionally, here and in 201.26, we recommend adding language to protect residents from having facility employees serve as their representative, guardian, surrogate, or fiduciary.

**201.25 - Discharge or transfer policy**
We add essential language protecting residents who are being discharged or transferred.

**201.27 and 201.27a. - Advertisement of special services.**
This section has not sufficiently prevented against facility misrepresentation and so we add language to strengthen it to protect residents and potential residents. Additionally, we add a section to specifically
outline requirements of a Dementia Care or Memory Unit and that a facility cannot advertise having one unless the Department has approved its Dementia Care or Memory Unit.

201.29 - Resident Rights
This section required multiple updates to be brought up to date with federal regulations and person-centered requirements and best practices.

201.31 - Access requirements.
This section is updated to be more transparent about the requirements for facilities to permit physical and virtual access to named agencies or organizations that are required to be provided with access.

205.28 - Nurses’ station.
We add language requiring adequate PPE supplies, hand sanitizing, and cleaning supplies at each nurses’ station.

205.41 - Hand Sanitization Stations.
We add this section to establish requirements for the placement of hand sanitizing stations throughout the facility.

205.66 and 205.66a. - Special Ventilation requirements for new construction and for existing construction.
We add requirements for HEPA air filtration systems to new and existing construction.

205.75 - Supplies.
We add language requiring a sufficient amount of PPE, as based on a burn-rate calculation, to keep residents and staff safe.

207.2 - Administrator’s responsibility.
We add language making the administrator responsible for ensuring that housekeeping and maintenance staff are trained in and following infection control procedures.

209.1-8 - Fire protection and resident safety
We revise this language to update smoking restrictions and to expand to other types of emergency situations, not just fires. Specifically, in addition to fire drills, we recommend requiring broader emergency, pandemic, and disaster preparedness and drills for other emergency situations.

211.1-11 - Program Standards for LTC Nursing Facilities
We revise this chapter to address the impact of COVID-19, to address changes over the past several decades around the use of restraints, to incorporate person-centeredness requirements and best practices, and to ensure employee hygiene in dealing with residents.

211.12 - Nursing services and staffing minimums and baseline ratios.
We recommend renaming and revising this section to account for the following:

1) Existing staffing levels are too low and must be raised in accordance with research and best practices that demonstrate that higher staffing levels are necessary to provide quality care to residents.1 The Pennsylvania Department of Education recommends 120 hours as a baseline for...

1 https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4833431/
Certified Nursing Assistant training\(^2\) and we support this recommendation and incorporate it into our comments.

2) Existing ratios are likewise inadequate and require upwards adjustment based on research and best practices.

3) Minimum staffing levels and ratios should act as floors, not ceilings, and staffing levels must reflect the actual needs of each resident as identified in their comprehensive needs assessments and in the facility assessment, which we would require facilities to complete quarterly instead of annually in order to ensure that this important information accurately reflects the needs of facilities’ resident populations.

211.13 - Infection Preventionist and 211.14 - Ancillary Staff.
We add language requiring a full-time infection preventionist. Infection control violations are and have been widespread in LTC facilities, long pre-dating the outbreak of COVID-19. The GAO recently released a report on widespread and persistent infection control deficiencies prior to COVID-19.\(^3\) These years of infection control violations have occurred in nursing facilities notwithstanding a federal nursing home regulation that requires facilities to develop infection control programs and to designate a person to serve as infection preventionist.\(^4\) Federal regulations, however, only require that the individual designated to serve as infection preventionist be a staff person who works at least part-time at the facility. The experience of COVID-19 has demonstrated that the part-time infection preventionist is insufficient. LTC facilities around the country that have successfully staved off COVID-19 from entering are the ones that have a full-time infection preventionist.\(^5\)

We recommend defining who are ancillary staff and make the regulations clear that ancillary staff levels must be calculated separately from direct care staffing levels.

211.16 - Social services, supports, and minimizing isolation.
We revise this section title and function to reflect the invaluable role of preventing isolation and supporting residents to engage in social activities.

Enforcement
As a final note, we believe the Department can and must do better in its enforcement activities. Too often, violations are not cited, or their severity is not accurately reflected in the enforcement action taken. We urge the Department to enhance their efforts and activities around enforcement.

Resident’s Rights and Residents First
We urge the Department to consider resident’s rights first. Adopting its own commitment to person-centeredness, we encourage the Department ensure that residents are at the center of the Department’s work. Enforcement should be dependent upon ensuring that resident rights are protected and secure. By building stronger relationships and ongoing communication with state and local ombudsman, the Department can have a strong ally in enforcing resident rights in every aspect of the regulatory process.

\(^2\) https://www.education.pa.gov/K-12/Career%20and%20Technical%20Education/Nurse%20Aide%20Training%20Program/Pages/default.aspx

\(^3\) https://www.gao.gov/assets/710/707069.pdf


Along with the Department, we are dedicated to helping improve the lives of nursing facility residents, and appreciate the dedication the Department has shown, particularly during this difficult time. We would appreciate the opportunity to meet with your staff in the weeks ahead to further discuss our recommended revisions to the regulations. You can reach us by emailing Pamela Walz at pwalz@clsphila.org and/or Diane Menio at menio@carie.org.

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

GENERAL PROVISIONS

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GENERAL PROVISIONS

§ 201.0. Purpose

The purposes of regulating nursing facilities are as follows:
(1) to enhance the health and welfare of Pennsylvania citizens by making the health care and long-term services and supports delivery system responsive and adequate to the needs of its citizens;

(2) to assure that new health care services and facilities are efficiently and effectively used;

(3) to ensure that health care services and facilities meet and will continue to meet high quality standards;

(4) to respect the right that all citizens have to receive quality, humane, courteous, and dignified care;

(5) to ensure nursing facility residents can maintain their individuality and make choices about how they want to live;

(6) to foster responsible private operation and ownership of health care facilities; and

(7) to encourage innovation and continuous development of improved methods of health care delivery to nursing home residents.

§ 201.1. Applicability.

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

§ 201.2. Requirements.

The Department incorporates by reference Subpart B of the Federal requirements for long-term care facilities, 42 CFR 483.1—483.75 (relating to requirements for long-term care facilities) revised as of October 1, 1994, 2016, as licensing regulations for long-term care nursing facilities with the exception of the following sections and subsections:

(1) Section 483.1 (relating to basis and scope).

(2) Section 483.5 (relating to definitions).

(3) Section 483.10(b)(10), (c)(7) and (8) and (o) (relating to level A requirement: Resident rights).

(4) Section 483.12(a)(1), (b), (c)(1) and (d)(1) and (3) (relating to admission, transfer and discharge rights).

(5) Section 483.20(j) and (m) (relating to resident assessment).

(6) Section 483.30(b)—(d) (relating to nursing services).
(7) Section 483.40(e) and (f) (relating to physician services).

(8) Section 483.55 (relating to dental services).

(9) Section 483.70(d)(1)(v) and (3) (relating to physical environment).

(10) Section 483.75(e)(1), (h) and (p) (relating to administration).

§ 201.3. Definitions.

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

*Abuse*—Abuse is the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain or mental anguish. Abuse also includes the deprivation by an individual, including a caretaker, of goods or services that are necessary to attain or maintain physical, mental, and psychosocial well-being. Instances of abuse of all residents, irrespective of any mental or physical condition, cause physical harm, pain or mental anguish. It includes verbal abuse, sexual abuse, physical abuse, and mental abuse including abuse facilitated or enabled through the use of technology. Willful, as used in this definition of abuse, means the individual must have acted deliberately, not that the individual must have intended to inflict injury or harm. The infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm or pain or mental anguish, or deprivation by an individual, including a caretaker, of goods or services that are necessary to attain or maintain physical, mental and psychosocial well being. This presumption that instances of abuse of all residents, even those in a coma, cause physical harm, or pain or mental anguish. The term includes the following:

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

(A) Threats of harm.

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

(ii) *Sexual abuse*—Sexual abuse is non-consensual sexual contact of any type with a resident. Sexual abuse may occur as the result of deceiving, manipulating, or forcing a resident into sexual contact and includes unwanted intimate touching of any kind, rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault or incest, forced nudity, forced observation of masturbation and/or pornography.
and the taking of sexually explicit photographs or audio/video recordings of a resident and distributing them online or in-person.

Includes sexual harassment, sexual coercion or sexual assault.

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

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

(v) Involuntary seclusion—Separation of a resident from other residents or from his room or confinement to his room (with/without roommates) against the resident’s will, or the will of the resident’s legal representative. Emergency or short term monitored separation from other residents will not be considered involuntary seclusion and may be permitted if used for a limited period of time as a therapeutic intervention to reduce agitation until professional staff can develop a plan of care to meet the resident’s needs.

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


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

Administrator—An individual who is charged with the general administration of a facility, whether or not the individual has an ownership interest in the facility and whether or not the individual’s functions and duties are shared with one or more other individuals. The administrator shall be currently licensed and registered by the Department of State under the Nursing Home Administrators License Act (63 P. S. §§ 1101—1114.2).

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

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

Applicant—The entity applying for licensure, whether initial licensure for a new facility or transfer of ownership licensure for an existing facility that would, if approved by the Department, be transferred to the new owner.
**Audiologist**—A person licensed as an audiologist by the Pennsylvania State Board of Examiners in Speech-Language and Hearing, or excluded from the requirement of licensure under the Speech-Language and Hearing Licensure Act (63 P. S. §§ 1701—1719).

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

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

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

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

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

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

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

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

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

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

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

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

(i) A registered nurse.

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

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

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

Clinical laboratory—A place, establishment or institution, organized and operated primarily for the performance of bacteriological, biochemical, hematological, microscopical, serological or parasitological or other tests by the practical application of one or more of the fundamental sciences to material originating from the human body, by the use of specialized apparatus, equipment and methods, for the purpose of obtaining scientific data which may be used as an aid to ascertain the state of health. The tests are conducted using specialized apparatus, equipment and methods, for the purpose of obtaining scientific data which may be used as an aid to ascertain the state of health.

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

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

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

Department—The Department of Health of the Commonwealth.

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

(i) Is a dietitian.
(ii) Is a graduate of a dietetic technician or dietetic assistant training program, correspondence course or classroom course approved by the American Dietetic Association.

(iii) Is a member of the American Dietetic Association or the Dietary Managers Association.

(iv) Is a graduate of a State approved course that provided 90 or more hours of classroom instruction in food service supervision and has experience as a supervisor in a health care institution with consultation from a dietitian.

(v) Has training and experience in food service supervision and management in a military service equivalent in content to the program in subparagraph (iv).

(vi) Has a baccalaureate degree from a State approved or accredited college or university and has at least 12 credit hours in food service, nutrition or diet therapy and at least 1 year of supervisory experience in the dietary department of a health care facility.

Dietitian—A person who is either:

(i) Registered by the Commission on Dietetic Registration of the American Dietetic Association.

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

Director of nursing services—A registered nurse who is licensed and eligible to practice in this Commonwealth and has 1 year of experience or education in nursing service administration and supervision, as well as additional education or experience in areas such as rehabilitative or geriatric nursing, and participates annually in continuing nursing education. The director of nursing services is responsible for the organization, supervision and administration of the total nursing service program in the facility.

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

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

**Drug or medication**—A substance meeting one of the following qualifications:

(i) Is recognized in the official United States Pharmacopeia, or official National Formulary or a supplement to either of them.

(ii) Is intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals.

(iii) Is other than food and intended to affect the structure or a function of the human body or other animal body.

(iv) Is intended for use as a component of an article specified in subparagraph (i), (ii) or (iii), but not including devices or their components, parts or accessories.

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

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

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

**Exploitation - "Exploitation."** An act or course of conduct by a caretaker or other person against an older adult or an older adult’s resources, without the informed consent of the older adult or with consent obtained through misrepresentation, coercion or threats of force, that results in monetary, personal or other benefit, gain or profit for the perpetrator or monetary or personal loss to the older adult.

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

**Full-time**—A minimum of a 35-hour work week involving a minimum of 4 days per week.

**Interdisciplinary team**—An individually-tailored team involved in a resident’s person-centered service planning and service delivery, including the resident’s attending physician, a registered nurse with responsibility for the resident and other appropriate staff in disciplines as determined by the resident’s needs, and the resident. If the resident is cognitively impaired and unable to fully participate, the team shall include to the extent practicable, the participation of the resident, and shall also include the resident’s family, a resident representative, responsible person or the resident’s legal representative.
Intimidation - "Intimidation." An act or omission by any person or entity toward another person which is intended to, or with knowledge that the act or omission will, obstruct, impede, impair, prevent or interfere with the administration of this act or any law intended to protect older adults from mistreatment.

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

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

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

Long-term care ombudsman – The local entity serving as designee of the Pennsylvania Office of the State Long-Term Care Ombudsman charged with the functions and responsibilities set forth in 45 CFR §1324.

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

Neglect - The failure of the facility, its employees, or service providers to provide goods and services to a resident that are necessary to avoid physical harm, pain, mental anguish, or emotional distress.


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

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

Nurse aide—An individual providing nursing or nursing-related services to residents in a facility who:
(i) Does not have a license to practice professional or practical nursing in this Commonwealth.

(ii) Does not volunteer services for no pay.

(iii) Has completed 120 hours of training and met the requisite training (other than total hours) and competency evaluation requirements as defined in 42 CFR 483.705 (relating to administration).

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

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

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

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

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

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

Person-Centered Care - Care that is focused on the resident as the locus of control and support the resident in making their own choices and having control over their daily lives.

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

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

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

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

Physician assistant—An individual certified as a physician assistant by the State Board of Medicine under the Medical Practice Act of 1985 (63 P. S. § 422.1—422.45), or by the State Board of Osteopathic Medical Examiners under the Osteopathic Medical Practice Act (63 P. S. § 271.1—271.18).
Practice of pharmacy—The practice of the profession concerned with the art and science of the evaluation of prescription orders and the preparing, compounding and dispensing of drugs and devices, whether dispensed on the prescription of a medical practitioner or legally dispensed or provided to a consumer. The term includes the proper and safe storage and distribution of drugs, the maintenance of proper records, the participation in drug selection and drug utilization reviews and the responsibility of relating information as required concerning the drugs and medicines and their therapeutic values and uses in the treatment and prevention of disease. The term does not include the operations of a manufacturer or distributor as defined in The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144).

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

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

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

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

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

(i) Is a qualified therapeutic recreation specialist.

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

Resident representative. The term resident representative means any of the following:

(1) An individual chosen by the resident to act on behalf of the resident in order to support the resident in decision-making; access medical, social or other personal information of the resident; manage financial matters; or receive notifications;

(2) A person authorized by State or Federal law (including but not limited to agents under power of attorney, representative payees, and other fiduciaries) to act on behalf of the resident in order to support the resident in decision-making; access medical, social or other personal information of the resident; manage financial matters; or receive notifications;

(3) Legal representative, as used in section 712 of the Older Americans Act; or.

(4) The court-appointed guardian of a resident.
(5) An employe of the facility shall not serve as resident representatives for any resident.

(6) Nothing in this rule is intended to expand the scope of authority of any resident representative beyond that authority specifically authorized by the resident, State or Federal law, or a court of competent jurisdiction.

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

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

_Restraint_—A restraint can be physical, _mechanical_, or chemical.

(i) A physical or personal restraint includes means the application of physical force without the use of any device, for the purposes of restraining the free movement of a resident's body. The term physical or personal restraint does not include briefly holding without undue force a resident in order to calm or comfort him, her, or them or holding a resident's hand to safely escort a resident from one area to another.

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

(iii) A chemical restraint or “drug used as a restraint” includes psychopharmacologic drugs that are administered or used for discipline, or convenience, or to manage a resident’s behavior in a way that reduces the safety risk to the resident or others, have the temporary effect of restricting the resident’s freedom of movement, and do not reflect a standard treatment for the resident’s medical or psychiatric condition and not required to treat medical symptoms.

"Serious bodily injury." Injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of the function of a body member or organ. (Def. added June 9, 1997, P.L.160, No.13)

"Serious physical injury." An injury that:

(1) causes a person severe pain; or

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

Social worker—An individual with the following qualifications:

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

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

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

 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.

(a) An application for a license to operate a facility shall be made under section 807 of the act (35 P. S. § 448.807). The application form shall be obtained from the Division of Nursing Care Facilities, Bureau of Quality Assurance, Department of Health. The requirements in this section apply both to applications for new facilities and to applications resulting from a change of ownership for an existing licensed facility. In both instances, applications must be submitted and approved prior to operation of the facility.

(b) An application for licensure shall contain a sworn statement of the following shall be submitted with the application for licensure:

   (1) The names and addresses of any person who has an ownership or control interest in the facility, whether the interest is in its profits or in the land or building real property occupied and
used as the facility. For the purposes of 28 Pa. Code 201.12 (b), a “person who has an ownership or control interest” shall mean a person who:

(i) has a direct or indirect ownership interest of 5% or more in the facility, or the organization that holds the license or the land or building occupied and used as the facility;

(ii) is the owner of a whole or part interest in any mortgage, deed or trust, note, or other obligation secured (in whole or in part) by the equipment used in the facility or by the alnd on which or building in which the facility is located as well as a written list of the names and addresses of the facility’s officers and members of the board of directors.

(2) If the owner is a nonprofit corporation, a complete list of the names and addresses of the officers and directors of the corporation and an exact copy of its charter and articles of incorporation which are on file with the Department of State as well as amendments or changes.

(3) If the owner is a partnership, the names and addresses of partners.

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

(5) The name and address of any individuals or entities having a direct or indirect interest in the management of the facility or the provision of services at the facility.

(c) An application shall also contain the following:

(1) Applicant’s qualifications and corporate history;

(2) A list of every licensed facility in any state, the District of Columbia or territory in which the applicant has or had any percentage of interest in the ownership, management or real property of that facility;

(3) Applicant’s licensing and regulatory history in all jurisdictions where the applicant has owned or operated nursing facilities.

(4) Any financial failures directly or indirectly involving any individuals or entities identified in the application that resulted in a bankruptcy, receivership, assignment, debt consolidation/restructuring, mortgage foreclosure, corporate integrity agreement, sale or closure of a nursing facility, the land it sits on, or the building in which it is located;

(5) Proposed operating policies and procedures

(6) Proposed staffing and hiring plan, including the management and oversight staff and structure and the participants of the facility’s governing body

(7) Proposed training plan
(8) Proposed Emergency, Pandemic, and Disaster Preparedness Plan

(9) Proposed Standard Admissions Agreement

(10) A detailed budget for three years of operations, prepared in accordance with generally accepted accounting principles and evidence of access to sufficient capital needed to operate the facility in accordance with the budget and the facility assessment required by 42 C.F.R. sec. 483.70(e).

(d) An applicant or licensee that has failed to demonstrate legal capacity to operate a facility, as demonstrated by the absence of such documents as articles of incorporation, shall be provided one opportunity to cure their application.

201.12a Evaluation of application

(a) The Department shall not approve an application for a license unless:

(1) The Department has conducted an inspection of the facility and determined that the applicant complies with 28 Pa. Code sections 201-211; and

(2) The Department has conducted an investigation of the applicant and the documents submitted as part of the application as outlined in 201.12 and has determined that the applicant is suitable and responsible to establish or operate a facility.

201.12b Suitability and Responsibility of Applicant or Licensee

(a) An Applicant or Licensee shall be determined suitable and responsible to establish or operate a facility based on a case-by-case evaluation of the Applicant or Licensee that considers:

(1) The Applicant’s or Licensee’s past performance in the Commonwealth and in other jurisdictions.

(2) The Applicant’s or Licensee’s demonstrated financial and organizational capacity and capability to successfully perform the requirements of operating a facility which includes history of any bankruptcies, purchases, sales, and closures and any other evidence of the absence of a pattern and practice of financial problems in operating facilities in the Commonwealth or other jurisdictions.

(3) The Applicant’s or Licensee’s demonstrated history of and experience with regulatory compliance and consistent performance in delivering quality care to evidence the absence of a pattern and practice of non-compliance and poor performance in the Commonwealth or other jurisdictions. This includes consideration of all facilities operated and licenses held by the Applicant or Licensee in any jurisdiction, their licensure history, and their government enforcement history.
(4) The Applicant has submitted documents in accordance with 201.12 that demonstrate
likelihood of and preparedness to successfully implement and provide quality care in accordance
with the requirements outlined in this Chapter.

(5) The Department has received confirmation of the absence of factors of unsuitability and
irresponsibility as outlined in (b) and (c) herein.

(b) Each of the following, in and of itself, constitutes full and adequate ground for deeming an
applicant or licensee neither suitable nor responsible to establish or maintain a facility:

(1) The applicant or licensee has acted in a manner resulting in the facility being that put on the
CMS Special Focus Facility list as a Special Focus Facility or candidate.

(2) The applicant or licensee has prevented or attempted to impede the work of any duly
authorized representative of the Department or the lawful enforcement of any provision of Title
28 of the Pennsylvania Code.

(3) The applicant plans to assume or has assumed ownership of the facility in an effort to
circumvent the effect and purpose of 28 Pa. Code Chapter 201.

(4) The applicant or licensee cannot demonstrate sufficient financial resources to provide
services required by state and federal regulations.

(5) A facility operated by the applicant or licensee or a facility in which the applicant or licensee
owns a 50% or greater interest or acts as a corporate officer or member of the board of directors
has been the subject of proceedings that resulted in the suspension, denial or revocation of the
license or renewal license of the facility or has been the subject of proceedings that resulted in
the denial, cancellation or revocation of the Medicare or Medicaid certification of the facility.

(6) The applicant or licensee has falsified any information, data or record required by the
application.

(7) The applicant or licensee has been convicted of any crime involving physical, sexual, mental
or verbal abuse or neglect.

(8) The applicant or licensee has been convicted of any crime involving the misappropriation of
property or financial abuse.

(9) The applicant or licensee has permitted, aided or abetted in the commission of any illegal
act against a nursing home resident.

(10) A federal, state, or local law enforcement entity has filed an action in any court concerning
conditions in any health care facility for which the applicant or licensee was licensed, if that
lawsuit resulted in an order or judgment against the applicant or licensee granting damages or any form of equitable relief, including an injunction.

(c) Factors that have a significant bearing on the suitability and responsibility of an applicant or licensee include, but are not limited to:

(1) The applicant or licensee has failed to demonstrate competence and experience in operating a long-term care facility.

(2) The applicant or licensee has failed to report patient or resident abuse, mistreatment or neglect to the Department as required under the Older Adults Protective Services Act (OAPSA) Act 79 of 1987, P.L 381, as amended by Act 13 of 1997 or the relevant code in another jurisdiction;

(3) The applicant or licensee has been convicted of, pleaded guilty to, or has, in a judicial proceeding, admitted facts sufficient for a finding that he or she is guilty of, any felony.

(4) A federal, state, or local law enforcement entity has filed an action in any court concerning conditions in any health care facility for which the applicant or licensee was licensed.

(5) A facility owned or operated by the applicant or licensee has been the subject of proceedings that were ultimately resolved by settlement agreement but that were initiated to suspend, deny or revoke the license or renewal license or to deny, cancel or revoke the Medicare and/or Medicaid certification of the facility.

(6) The applicant or licensee has employed in a management or supervisory position a person whom a hearing officer has determined to be unsuitable or not responsible to establish or maintain a long-term care facility.

(7) The applicant's or licensee's license or certificate of registration as a nursing home administrator has been suspended, revoked or denied.

(8) A facility owned or operated by the applicant or licensee has been the subject of proceedings that resulted in the suspension, denial or revocation of the license or renewal license of the facility or has been the subject of proceedings that resulted in the denial, cancellation or revocation of the Medicare and/or Medicaid certification of the facility.

(9) Had any direct or indirect ownership interest in a facility cited for five or more actual harm deficiencies or three or more immediate jeopardy deficiencies in the past three survey cycles.

(10) A facility owned or operated by the applicant or licensee has been put on the CMS Special Focus Facility Candidate list.
(11) The applicant or licensee’s financial management of one or more licensed facilities has resulted in the filing of a petition for bankruptcy related to the financial solvency of the facility or has otherwise resulted in a lack of sufficient financial resources to provide services required by state and federal regulations.

(12) The applicant or licensee has maintained a substandard level of care, as measured by compliance with applicable licensing regulations in Pennsylvania or elsewhere, with applicable federal conditions of participation in Medicare and Medicaid and other pertinent evidence, in any institution for which the applicant or licensee has been a licensee in Pennsylvania or elsewhere. For purposes of this section, an applicant or licensee has maintained a substandard level of care if the applicant or licensee has

(i) The serious violation of applicable regulations shall constitute the maintenance of a substandard level of care.

(ii) For purposes of 28 Pa. Code 201.12c, the following factors will be considered in determining whether a violation of applicable regulations is “serious”.

1. The extent of any violation including, but not limited to:
   i. the number of residents affected;
   ii. the length of time the violation persists; and
   iii. the frequency of the violation.

2. The actual or potential impact of any violation on residents of the facility. Violation of regulations in the following areas will be presumed to have an adverse impact upon residents:
   i. residents’ rights;
   ii. nursing services; medication and diet;
   iii. resident comfort;
   iv. resident cleanliness and grooming;
   v. resident safety;
   vi. use of restraints;
   vii. sanitation;
   viii. linen supply;
   ix. resident abuse, neglect, or exploitation; or
x. misappropriation of resident property.

§ 201.13. Issuance of license to operate a facility.

(a) A person may not maintain or operate a facility without first obtaining a license issued by the Department. A license to operate a facility is not transferable without prior approval of the Department, which shall not be given without the submission, review, and approval of a new license application packet.

(b) A license to operate a facility will not be issued unless the Department receives the completed application form and the licensure fee and when, after a satisfactory inspection by an authorized representative of the Department, it has been determined that the necessary requirements for licensure have been met. This applies to applicants for new facility licensure and to licensure of facilities undergoing a transfer of ownership.

(c) In determining whether to issue a license, the Department shall consider public comments received after public disclosure of application for facility license and comment period for public.

(d) The required initial application and annual fee for a license is:

<table>
<thead>
<tr>
<th>License Type</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regular Licenses (new or renewal)</td>
<td>$250</td>
</tr>
<tr>
<td>Each inpatient bed in excess of 75 beds</td>
<td>$2</td>
</tr>
<tr>
<td>Provisional I License</td>
<td>$400</td>
</tr>
<tr>
<td>Each inpatient bed</td>
<td>$4</td>
</tr>
<tr>
<td>Provisional II License</td>
<td>$600</td>
</tr>
<tr>
<td>Each inpatient bed</td>
<td>$6</td>
</tr>
<tr>
<td>Provisional III License</td>
<td>$800</td>
</tr>
<tr>
<td>Each inpatient bed</td>
<td>$8</td>
</tr>
<tr>
<td>Provisional IV License</td>
<td>$1,000</td>
</tr>
<tr>
<td>Each inpatient bed</td>
<td>$10</td>
</tr>
</tbody>
</table>
These fees will be annually adjusted for the rate of inflation.

(De) 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 and types of beds authorized and the date of the valid license.

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

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

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

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

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

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

(H) The facility shall have on file the most recent annual and other survey and inspection reports, going back at least 3 calendar years, relating to the health and safety of residents, indicating compliance with applicable State and local statutes and regulations. Upon request and at no cost, the facility shall make these most recent reports available to interested persons.

(i) If the Department’s inspection report indicates deficiencies, the facility shall indicate in writing its plans to make corrections and specify dates by which the corrective measures will be completed. The plans are valid only upon approval by the Department, which will be granted if the written plan of correction demonstrate a detailed outline of specific steps the facility will take to correct every deficiency cited.

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

201.13a. Opportunity for Public Comment.

(a) Public Notice. The applicant must publish notice of its intent to establish or operate a long-term care facility. The public notice, which must be submitted to the Department for approval prior to publication, shall accurately describe the proposed facility and meet the following requirements:
i. Publication must be within 21 days following the date on which the applicant received written notice from the Department that its application was substantially complete.

ii. The notice must contain the name and address of the proposed long-term care facility; name and address of the proposed licensee, if different; and name and address of the owner or owners. In addition, the written notice must contain the following statements: "A public hearing may be requested upon petition by any group of ten adults. Such petition shall include the name, address and signature of each adult. Written comments concerning the proposed facility and petitions for a public hearing may be addressed to the offices of the Department of Health for a period of 21 days following this publication." The notice shall include both physical and electronic mail addresses provided by the Department for the submission of comments.

iii. If the notice as published does not contain all of the required information, the Department may require republication of the notice within a reasonable period of time.

iv. The notice shall appear in the Legal Notice section and shall be captioned as appropriate, such as “Public Announcement Concerning (name of health care facility).” An identical notice shall also be published at least once in some other section of the same newspaper.

v. Such notice shall appear in a daily newspaper published in the city or town of, or nearest to, the location of the facility and be prominently displayed on the facility’s website, if available.

vi. Within three days of publication of the notice, the applicant shall provide a letter, approved in advance by the Department, to the following:

1) The Office of the State Long-term Care Ombudsman;

2) The Office of the Local Long-term Care Ombudsman;

3) The members of the General Assembly who represent the city or town in which the facility will be located; and

4) A representative of the local officials of the city or town in which the facility will be located.

vii. The licensee must provide a copy of the notices to the Department within seven days of publication of the notice and of provision to those parties listed at 28 Pa. Code 201.13a(a)(vi).

(b) Hearings.
i. Any ten adults may form a group with a designated representative. The group's representative may request a hearing through submission of a petition to the Department within 21 days of the date that the public notice appeared in the newspaper. The petition shall include the name, address and signature of each group member. The representative will receive all correspondence regarding the hearing.

ii. The Department shall notify the applicant in writing that a hearing is scheduled.

iii. A hearing will be held by a Departmental representative within three weeks of receipt of a petition for hearing.

iv. The Department shall take any written comments and comments presented at the hearing into consideration.


(a) The licensee is responsible for meeting the minimum standards for the operation of a facility as set forth by the Centers for Medicare and Medicaid Services, the Department and by other State and local agencies responsible for the health and welfare of residents. Licensees will be cited for violations of both state and federal requirements. Penalties for violations the Department may impose include but are not limited to:

(i) Plan of Correction

(ii) Civil Monetary Penalties

(iii) Provisional Licensure Status

(iv) Ban on Admission

(v) Recommendation to the Centers for Medicare and Medicaid Services for Medicare and Medicaid license revocation

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

(c) The licensee through the administrator shall report to the appropriate Division of Nursing Care Facilities field office adverse events, any alleged crime against a resident, and serious or critical incidents involving residents. As set forth in § 51.3 (relating to notification). For purposes of this subpart, references to patients in § 51.3 include references to residents.

(d) In addition to the notification requirements in § 51.3, the facility shall report in writing to the appropriate division of nursing care facilities field office:
(1) Transfers to hospitals as a result of injuries or accidents.

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

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

(f) Upon receipt of a strike notice, the licensee or administrator shall promptly notify the appropriate Division of Nursing Care Facilities field office and keep the Department apprised of the strike status and the measures being taken to provide resident care during the strike.

(g) A facility owner shall pay in a timely manner bills incurred in the operation of a facility that are not in dispute and that are for services without which the resident’s health and safety are jeopardized.

(h) The facility shall report to the Department, on forms issued by the Department, census, rate and program occupancy information as the Department may request.

(i) The facility must conduct facility assessments required in 42 CFR 438.70(e) quarterly.

201.14a Updating of Information

Each licensee shall update and keep current all information required by 28 Pa. Code Chapter 201 or otherwise required by the Department. Any document that amends, supplements, updates or otherwise alters any document required to be filed shall be filed with the Department within 30 days of the execution thereof. Any changes in or additions to the content of the information contained in any document required to be filed shall be reported to the Department within 30 days of such change or addition.

§ 201.15. Restrictions on license.

(a) A license shall apply only to the licensure, the name of the facility and the premises designated therein. It may not be transferable, in whole or in part, to another licensee or property without prior written approval of the Department and advance written notice to residents, residents’ representatives, and the state and local Long-Term Care Ombudsman. Notice shall also be posted conspicuously in the public area of the facility.

(b) Approval of a transfer of license, in whole or in part, shall be granted only

   (1) If no residents will be adversely impacted by the transfer. Residents may not be involuntarily discharged as a result of a whole or partial license transfer.
(2) If the transfer will not negatively impact access to nursing facility care for Medicaid recipients in the area from which the beds would be transferred.

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

(1) The expiration date has been reached.

(2) There is a change in ownership and the Department has not given prior approval.

(3) There is a change in the name of the facility, and the Department has not given prior approval for the transfer of the license.

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

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

201.16. Transfer of Ownership

(a) At least 90 calendar days in advance of a proposed transfer of ownership, any applicant who intends to acquire a long-term care facility shall submit a Notice of Intent form to the Department. The Department shall notify each applicant in writing of the date on which the form is deemed complete. Within 90 days of such date, the Department shall complete its suitability review for licensure. With the consent of the applicant, the Department may extend the 90-day suitability determination period for a maximum of 30 days.

(b) Opportunity for Public Input. All applicants must meet the following requirements:

(1) Public Notice. Within seven days of submitting the Notice of Intent form to the Department, the applicant shall also publish notice in the daily newspaper(s) within the city or town of, or nearest to, the location of the facility and prominently display this notice on the website for the long-term care facility being acquired, if available. This public notice shall accurately describe the proposed acquisition and meet the following requirements:

(i) The notice must contain the name and address of the health care facility being acquired; name and address of the seller; name and address of the buyer; potential changes, if any, in the services of the health care facility; and the potential changes, if any, in the bed capacity of the facility. In addition, the written notice must contain the following statements: “A public hearing may be requested upon petition by any group of ten adults. Such petition shall include the name, address and signature of each adult and designate one member as the representative of the group. Written comments concerning the applicant’s ability to provide quality long-term care services and
petitions for a public hearing may be addressed to the offices of the Department of Health, Division of Nursing Care Facilities.” Such notice shall state that a request for hearing may be made for a period of 2144 days following publication in the newspaper. The notice shall include both physical and electronic mail addresses provided by the Department for the submission of comments.

(ii) If the notice as published does not contain all of the information listed in 28 Pa.Code 201.16(b)(1)(i), the Department may require republication of the notice within a reasonable period of time.

(iii) The newspaper notice shall appear in the Legal Notice section; and shall be captioned as appropriate, such as "Public Announcement Concerning (name of health care facility)." An identical notice shall also be published at least once in some other section of the same newspaper.

(iv) No final determination of suitability shall be made unless the applicant has submitted a true copy of such notice.

(2) Within seven days of the Notice of Intent form being submitted to the Department, the current owner or current licensee of a facility that is the subject of a Notice of Intent shall provide a copy of the notice required by 28 Pa. Code 201.16(b)(1) to the following:

(i) Each resident of the facility and, where applicable, the resident's representative;

(ii) The designated family member of each resident;

(iii) The facility's resident council;

(iv) The facility's family council;

(v) Each staff member of the facility;

(vi) Every labor organization that represents the facility's workforce during the period of the transfer of ownership;

(vii) The Office of the State Long-term Care Ombudsman;

(viii) The Office of the Local Long-term Care Ombudsman;

(ix) The members of the General Assembly who represent the city or town where the facility is located; and

(x) A representative of the local officials of the city or town where the facility is located.
The current owner or licensee shall submit a signed statement to the Department that such notice was provided in accordance with 28 Pa. Code 201.16(b)(2) before a final determination of suitability is rendered for the prospective owner or licensee. Failure to comply with the requirements of 28 Pa. Code 201.16(b) shall delay a finding of suitability.

(3) Hearings.

(i) Upon receipt of a petition for a hearing, the Department will hold a hearing no later than 45 days before the proposed date for the transfer of ownership.

(ii) The Department shall notify in writing the applicant, the current owner or current licensee, and the petitioner group's representative of any hearing that is scheduled under 28 Pa. Code 201.16. The current owner or licensee shall immediately post a notice of the hearing in the facility that is subject of the Notice of Intent. The posted notice shall include the date, time, location and purpose of the hearing and shall be placed in locations that are easily visible to residents, employees, and visitors. At minimum, the notice shall be placed in the dining room, in the activity room, and main entrance. A copy of the text of the notice shall be readily available upon request by any resident, a resident’s legal representative, employee or visitor. The current owner or licensee shall immediately inform, in writing, the resident council and family council in the facility, if there is a resident council or family council, of the date, time, location, and purpose of any hearing regarding the transfer of ownership.

(iii) The Department shall take any written comments and comments presented at the hearing into consideration in its determination of the suitability and responsibility of the potential new owner.

(iv) If a single transfer of ownership involves multiple facilities, the Department may in its discretion schedule one or more consolidated hearings regarding the transfer of ownership.

(c) Any person applying for a license as a result of any transfer of ownership shall file proof that such transfer has occurred within two business days of the transfer unless an extension of the two business day period is granted by the Secretary.

(d) A license application filed as a result of a transfer of ownership, if timely filed, shall have the effect of a license from the date of transfer or until such time as the Department takes action on the application. If not timely filed, such an application shall not have such effect.

(e) Any notice of hearing, order or decision that the Department issues for a facility prior to a transfer of ownership shall be effective against the former owner prior to such transfer and, where appropriate, the new owner, following such transfer unless said notice, order or decision is modified or dismissed by the Department.
(f) A transfer of ownership shall not be recognized and the new owner shall not be considered suitable for licensure when the transfer is proposed or made to circumvent the effect and purpose of 28 Pa. Code 201. The Department shall consider the following factors in determining whether a transfer has been proposed or made to circumvent 28 Pa. Code 201: (1) the transferor's record of compliance with Department licensure laws and regulations; (2) the transferor's current licensure status; (3) the transferor's familial, business and/or financial relation to the transferee; (4) the terms of the transfer; and (5) the consequences of the transfer.

(g) The Department shall be notified immediately in writing of any proposed change in name or location of a facility. A license shall not be transferred from one person or entity to another or from one location to another.

(h) The Department may waive the time frame for notification or a hearing where the Secretary has determined that such a waiver is necessary to protect the health and safety of the facility's residents.

§ 201.16. [Reserved].

§ 201.17. Location.

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

§ 201.18. Management.

(a) The facility shall have an effective governing body or designated person functioning with full legal authority and responsibility for the operation of the facility. The governing body is legally responsible for establishing and implementing policies regarding the management and operation of the facility. The governing body shall report monthly to the licensee on operational activities including, at a minimum, the items identified in 201.18(b). The governing body appoints the administrator of the facility and the governing body is responsible and accountable for the QAPI program, in accordance with § 483.75(f).

(b) The governing body shall adopt and enforce rules relative to:

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

(2) Protection of personal and property rights of the residents, while in the facility, and upon discharge or after death, and return of any resident property remaining at the facility within 10 business days after discharge or death.

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

(d) The governing body shall adopt effective administrative and resident care policies and bylaws governing the operation of the facility in accordance with legal requirements. The administrative and resident care policies and bylaws shall be in writing; shall be dated; shall be made available to the members of the governing body, which shall ensure that they are operational; and shall be reviewed and revised, in writing, as necessary. The policies and bylaws shall be available upon request, to residents, responsible persons, resident representatives and for review by members of the public.

(e) The governing body shall appoint a full-time administrator who is currently licensed and registered in this Commonwealth and who is responsible for the overall management of the facility. The Department may, by exception, permit a long-term care facility of 25 beds or less to share the services of an administrator in keeping with section 3(b) of the Nursing Home Administrators License Act (63 P. S. § 1103(b)). The sharing of an administrator shall be limited to two facilities. The schedule of the currently licensed administrator shall be publicly posted in each facility along with the daily posting of staffing levels for all types of staff. The administrator’s responsibilities shall include the following:

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

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

3. Maintaining an ongoing relationship with the governing body, medical and nursing staff and other professional and supervisory staff through meetings and periodic reports.

4. Studying and acting upon recommendations made by committees.

5. Appointing, in writing and in concurrence with the governing body, a responsible employe to act on the administrator’s behalf during temporary absences.

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

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

8. Communicating to residents and resident representatives any updates about the composition of or decisions made by the governing body.
(f) A written record shall be maintained on a current basis for each resident with written receipts for personal possessions and funds received or deposited with the facility and for expenditures and disbursements made on behalf of the resident. The record shall be available for review by the resident or resident’s responsible person/resident representative upon request.

(g) The governing body shall disclose, upon request, to be made available to the public, the licensee’s current daily or monthly by plan, if applicable due to managed care monthly capitation rates, reimbursement under Medical Assistance and Medicare as well as the average daily charge to other insured and noninsured private pay residents.

(h) When the facility accepts the responsibility for the resident’s financial affairs, the resident or resident’s responsible person/resident representative shall designate, in writing, the transfer of the responsibility. The facility shall provide the residents with access to their money within 1 3 bank business days of the request and in the form—cash or check—requested by the resident.

§ 201.19. Personnel policies and procedures.

(a) The facility shall have and maintain written policies and procedures for all facets of operations. These policies and procedures must be provided to employees during Initial Training and Orientation. The policies and procedures must be maintained in writing and made available to the state for review at annual survey inspection and any time, on demand.

(b) Policies and procedures shall be reviewed annually and updated at least annually in accordance with best practices in resident care and service delivery.

(c) The facility must have policies covering at least the following topics:

- Hygiene, infection control, tracking resident interactions (for contact tracing),
- Hiring, staffing, staff sick time and sick pay and other family leave policies,
- Cultural non-discrimination,
- Guaranteed access to the facility (for LTC Ombudsman, Protective Services, surveyors, etc.),
- Conducting person-centered service planning and providing person-centered care
- Mandatory reporting of Abuse, Neglect, and Exploitation and reporting of critical/adverse incidents or sentinel events

(d) Personnel records shall be kept current and available for each employee and contain sufficient information to support placement in the position to which assigned including but not limited to:
• Completed employment application
• Criminal and abuse background checks,
• Records of credentials/qualifications,
• Record of dementia training 201.20 (d), (e)
• Record of completion of orientation, initial training (in addition to certification/licensure, and annual in-service training
• Documentation of monitoring/performance/disciplinary action
• Records of required infectious disease testing and results.

(e) At least 30 days advance written notice of changes to any policies must be provided to the Department, the residents, the residents’ representatives, and the LTCOP.

§ 201.20. Staff development, orientation, and annual training.

(a) There shall be an ongoing coordinated educational program which is planned and conducted for the development and improvement of skills of the facility’s personnel, including training related to problems, needs and rights of the residents.

(b) Each facility shall train all staff and all staff shall demonstrate competency through a combination of observation and other means prior to independent work in the facility. Training shall include the following topics:

i. Training on the detection and prevention of resident abuse, neglect, and exploitation and the mandatory reporting of the abuse, neglect, and exploitation.

ii. Residents’ Rights

iii. Disability Competency

iv. LGBTQ Cultural Competency

v. Implicit Bias

vi. Non-Discrimination

vii. Understanding dementia and effective communication skills with people living with dementia and how to apply that to residents of the facility. Additionally, each facility shall train all direct care staff in dementia care and treatment including: understanding
Alzheimer’s disease and dementia; person-centered care; assessment and care planning; activities of daily living; and dementia-related behaviors and communication.

(c) Every employee shall receive appropriate facility-specific orientation that covers the facility, its policies and procedures. Each employee and to the position and duties shall demonstrate competency through a combination of observation and other means prior to independent work with residents. The orientation shall include:

- training on the prevention of resident abuse and the reporting of the abuse.
  i. Infection prevention, detection, and control procedures in the facility
  ii. Emergency, Pandemic, and Disaster Preparedness Plan and preparedness for the facility
  iii. Fire Prevention and Resident Safety procedures for the facility
  iv. Incident reporting and accident prevention procedures for the facility
  v. Person-centered service planning and care provision for the residents of the facility
  vi. Understanding dementia and effective communication skills with people living with dementia and how to apply that to residents of the facility

(d) Every direct care employee shall additionally receive resident-specific, appropriate orientation specific to the actual residents of the facility, the facility’s policies, and to their specific position and duties, and shall demonstrate competency through a combination of observation and other means prior to independent work with residents. The orientation shall include:

  i. Personal care functions such as correct resident transfer techniques, Hoyer lift usage, and assistance with feeding;
  ii. Management of aggressive behaviors;
  iii. Documentation of care delivery; and
  iv. Dementia care and treatment needs specific to the residents in the facility.

(e) Employees serving as administrative staff members shall additionally receive appropriate initial orientation and training specific to the facility to include:

  i. Medical management information education and support;
  ii. Staffing;
  iii. Supportive and therapeutic environments; and
iv. Transitions and coordination of services.

(f) Upon completion of the initial orientation and training as required under Subsections (b) and/or (e), the facility shall issue a certificate of completion to each employee, which shall be portable between settings within Pennsylvania, provided that the employee does not have a lapse of direct service or administration employment for 24 consecutive months or more, the staff member shall not be required to repeat the initial training.

(g) There shall be at least annual in-service training of at least 16 hours per year which includes at least the following topics:

i. Best practices and updated procedures for infection prevention, detection, and control

ii. Effective cleaning and disinfecting processes and procedures

iii. Fire prevention and resident safety,

iv. Accident prevention,

v. Emergency, Pandemic, and Disaster Preparedness Plan

vi. Resident confidential information,

vii. Resident psychosocial needs,

viii. Restorative nursing techniques

ix. Resident rights, including personal property rights, privacy, preservation of dignity

x. Cultural competency including linguistic competency, disability competency, ethnic and racial equity competency, and LGBTQ competency

xi. Person-Centered care planning and service delivery

xii. Understanding brain injury providing traumatic brain injury capable care

xiii. Dementia treatment and care, including new information and best practices

xiv. The prevention and reporting of resident abuse, neglect, exploitation

xv. Incident reporting

xvi. Proper use, donning, and doffing of PPE.

(gd) Written records shall be maintained which indicate the content of and attendance at the staff development programs.
(h) Initial and Ongoing/Annual Training must be provided by individuals with knowledge and expertise in the designated topic of each training.

(i) The Department shall conduct random competency audits of staff during annual surveys.

§ 201.21. Use of outside resources.

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

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

(c) The responsibilities, functions and objectives and the terms of agreement, including financial arrangements and charges of the outside resource shall be delineated in writing and signed and dated by an authorized representative of the facility and the person or agency providing the service.

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

(e) The facility must cooperate with state-funded programs, demonstrations, or partnerships with local hospitals/health systems that the state makes available to improve quality of care or respond to a pandemic/infectious disease outbreak.

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

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

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

(c) A baseline TB status shall be obtained on all residents and employes in the facility.
(d) The intradermal tuberculin skin test is to be used whenever skin testing is done. This consists of an intradermal injection of 0.1 ml of purified protein derivative (PPD) tuberculin containing 5 tuberculin units (TU) using a disposable tuberculin syringe.

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

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

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

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

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

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

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

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

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

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

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

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

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


(a) The facility shall have a written COVID-19 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 COVID-19 infection or active COVID-19, and reporting to the Department upon experiencing impediments to implementation of the infection control plan.

(b) Recommendations of the Centers for Disease Control (CDC), United States Department of Health and Human Services (HHS) shall be followed in treating and managing persons with confirmed or suspected COVID-19.

(c) A baseline COVID-19 status shall be obtained on all residents and employees in the facility.

(d) A CDC approved or recommended test is to be used whenever COVID-19 testing is done.

(e) A written report of test results shall be maintained in the facility for each individual, irrespective of where the test is performed.

(f) COVID-19 “negative” employees shall have repeat COVID-19 tests at intervals determined by the risk of transmission in the community and facility. The CDC protocol for conducting a COVID-19 risk assessment in a health care facility shall be used to establish the risk of transmission.

(g) Repeat COVID-19 tests shall be required for COVID-19-negative employees and residents after any suspected exposure to a documented case of active COVID-19.

(h) New employees shall have the COVID-19 PCR test before beginning employment. Test results shall be made available prior to assumption of job responsibilities. CDC guidelines shall be followed with regard to repeat periodic testing of all employees.

(i) The COVID-19 test shall be administered to new residents upon admission.

(j) A resident with a diagnosis of COVID-19 may be admitted to the facility if:
(1) The facility has a DOH approved plan for safely isolating the new resident who is infected, including plans for cohorting staff and residents to prevent cross-contamination.

**201.22b. Prevention, control and surveillance of other infectious viruses or diseases.**

(a) In the response to any outbreak of any infectious virus or disease, the facility shall follow the recommendations, requirements, and guidance of the Centers for Disease Control (CDC), United States Department of Health and Human Services (HHS), and the Department in treating and managing persons with confirmed or suspected cases of the virus or disease.

**201.22c Infection Prevention, Detection, Control, and Surveillance**

The facility must undertake evidence-based best practices for infection prevention, detection, control, and surveillance. These must be outlined in their Emergency, Pandemic, and Disaster Preparedness Plan, as outlined in Section 209.7 below and must include policies and procedures related to:

- Infection control plan – including cleaning and disinfecting
- Minimum stockpile/stores of Supplies to be kept on site at all times
- Infection control training
- Annual administration of vaccinations
- Testing and re-testing policies
- Contact Tracing policies
- Staff return to work (post illness) policies
- Auditing and surveilling infection prevention, detection, and control practices as performed by staff

§ 201.23. Closure of facility.

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

(b) If the facility is to be closed, the licensee shall notify the resident or the resident’s responsible person or resident representative in writing no less than 60 days prior to closure and the written notice must include information about the availability of and contact information for the local Long-Term Care Ombudsman Program.
(c) Sufficient time shall be given to the resident or the resident’s representative to effect an orderly transfer.

(d) No resident in a facility may be required to leave the facility prior to 30 days following receipt of a written notice from the licensee of the intent to close the facility, except when the Department determines that removal of the resident at an earlier time is necessary for health and safety.

(e) If an orderly transfer of the residents cannot be safely effected within 30 days, the Department may require the facility to remain open an additional 30 days.

(f) The Department is permitted to monitor the transfer of residents.

(g) The licensee of a facility shall file proof of financial responsibility with the Department to insure that the facility continues to operate in a satisfactory manner for a period of 30 days following the notice of intent to close.


(a) The resident may be permitted to name a resident representative. The resident is not required to name a resident representative if the resident is capable of managing the resident’s own affairs. A resident representative may not be an employee of the facility.

(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) A facility shall not request or require a third party to sign an admissions contract unless the resident lacks decisional capacity and the third party has legal authority to act on the resident’s behalf.

§ 201.24a Admission process.

(a) Each facility shall develop and submit to the Department an admissions non-discrimination policy that reflects the facility’s plan to implement the following requirements:
(i) A facility shall not discriminate against any potential resident on the basis of payment source.

(ii) A facility shall not discriminate against any potential resident on the basis of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the Pennsylvania Human Relations Act (PHRA) and applicable federal laws.

(b) The facility shall use a Department-approved standard admissions agreement that shall serve as a legally binding agreement that defines the rights and obligations of each person (or party) signing the contract. Residents and/or resident’s representatives should be advised that this contract can be reviewed by a legal representative, or by any other advisor, before signing. The admissions agreement must include the following required sections:

(i) Consents to Treatment

(ii) Resident Rights

(iii) Financial Arrangements

1) Charges for Private Pay Residents

2) Security Deposits

3) Charges for Medicaid, Medicare, or Insured Residents

4) Billing and Payment

(iv) Transfers and Discharge

1) Bed Holds and Readmission

(v) Personal Property and Funds

(vi) Photographs

(vii) Confidentiality of Medical Information

(viii) Facility Rules and Grievance Procedure

§ 201.25. Discharge or transfer policy.

A resident shall not be discharged or transferred for any reason other than those outlined in 42 CFR 483.15. Prior to any discharge or transfer, there shall be developed and implemented a centralized, coordinated, individualized discharge plan for each resident who would be discharged or transferred to ensure that the resident has a program of continuing, person-centered care after discharge from the facility and that the setting to which the individual is being
discharged or transferred has the capability to meet the resident’s needs and preferences. The discharge plan shall be in accordance with each resident’s needs and preferences and shall include transfer by the facility of current person-centered service plans and any advance planning documents or orders related to the resident.

§ 201.26. Prohibition on Facility or Facility Staff Serving as Surrogate Power of attorney.

-Power of attorney, guardianship, healthcare proxy, or other surrogacy may not be assumed for a resident by the licensee, owner/operator, members of the governing body, an employee or anyone having a financial interest in the facility unless ordered by a court of competent jurisdiction. A facility may serve as representative payee only with the express written permission of the resident or the resident’s representative, after providing notice and information about the representative payee role and process.

§ 201.27. Advertisement of special services.

A facility must comply with the requirements of the Unfair Trade Protection and Consumer Protection Law, 73 Pa.C.S. §§ 201-1 - 201.9.3 (“UTPCPL”) in its advertising and marketing materials as they pertain to the nature and the quality of care provided to nursing home residents.

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.

A facility may not advertise their services in a manner that misrepresents their scope of services as being greater or lesser than their licensure and certification covers.

A facility may not advertise or promote the facility has providing services or having specialties unless they are defined by the state as specific services or specialties.

201.27a. Dementia Care or Memory Units

(a) A Dementia Care or Memory Unit is a unit or portion of a facility that has submitted an application to and been approved by the Department as a Dementia Care or Memory Unit that provides one or both of the following:

(1) Specialized care and services for residents with Alzheimer’s disease or dementia in the least restrictive manner consistent with the resident’s person-centered services plan to ensure the safety of the resident and others in the residence while maintaining the resident’s ability to receive the care and services they need.
(2) Intense neurobehavioral rehabilitation for residents with severely disruptive and potentially dangerous behaviors as a result of brain injury in the least restrictive manner consistent with the resident’s rehabilitation and person-centered services plan to ensure the safety of the resident and others in the facility.

(b) Only a facility authorized by the Department as a Dementia Care or Memory Unit may so advertise, regardless of what terminology the facility uses to describe their unit. The Department will consider the licensee’s demonstration that:

(1) Staff collaboratively assess, plan, and provide care that is consistent with current advances in dementia care practices.
(2) Staff have the qualifications, skills, training, and education to assess and provide care for a resident population with memory impairment.
(3) The facility provides activities that match the resident’s cognitive ability, memory, attention span, language, reasoning ability, and physical function.
(4) Non-pharmacological interventions are used as an alternative to antipsychotic medication use.
(5) The organization has a designated physical environment to promote safety and minimize confusion and overstimulation.

§ 201.28. [Reserved]. Compliance and Ethics

Each facility shall have a compliance and ethics program. The compliance and ethics program required pursuant to these regulations may be a component of more comprehensive compliance activities by the nursing home so long as the requirements of this section are met. A compliance and ethics program shall include the following elements:

(a) written policies and procedures that describe compliance expectations as embodied in a code of conduct or code of ethics, implement the operation of the compliance program, provide guidance to employees and others on dealing with potential compliance issues, identify how to communicate compliance issues to appropriate compliance personnel and describe how potential compliance problems are investigated and resolved;

(b) designate an employee vested with responsibility for the day-to-day operation of the compliance program; such employee's duties may solely relate to compliance or may be combined with other duties so long as compliance responsibilities are satisfactorily carried out; such employee shall report directly to the entity's chief executive or other senior administrator and shall periodically report directly to the facility's Board of Directors and governing body on the activities of the compliance program;
(c) establish a compliance committee consisting of executives, governing board members and facility personnel to assist the employee described in paragraph (b) in the performance of compliance functions;

(d) training and education of all affected employees and persons associated with the nursing home, including owners, executives and governing body members, on compliance issues, expectations and the compliance program operation; such training shall occur periodically but not less than annually and shall be made a part of the orientation for a new employee, appointee or associate, executive and governing body member;

(e) communication lines to the responsible compliance position, as described in paragraph (b), that are accessible to all employees, persons associated with the nursing home, owners, executives and governing body members, to allow compliance issues to be reported; such communication lines shall include a method for anonymous and confidential good faith reporting of potential compliance issues as they are identified;

(f) disciplinary policies to encourage good faith participation in the compliance and ethics program by all affected individuals, including policies that articulate expectations for reporting compliance issues and assist in their resolution and outline sanctions for: (1) failing to report suspected problems; (2) participating in non-compliant behavior; or (3) encouraging, directing, facilitating or permitting non-compliant behavior; such disciplinary policies shall be fairly and firmly enforced;

(g) a system for routine identification of compliance risk areas specific to the nursing home industry, for self-evaluation of such risk areas, including internal audits and as appropriate external audits and reviews, and for evaluation of potential or actual non-compliance as a result of such self-evaluations and audits;

(h) a system for responding to compliance issues as they are raised; for investigating potential compliance problems; responding to compliance problems as identified in the course of self-evaluations and audits; correcting such problems promptly and thoroughly and implementing procedures, policies and systems as necessary to reduce the potential for recurrence; identifying and reporting compliance issues to the appropriate federal and state entities; and refunding overpayments;
(i) a policy of non-intimidation and non-retaliation for good faith participation in the compliance program, including but not limited to reporting potential issues, investigating issues, self-evaluations, audits and remedial actions, and reporting to appropriate federal and state entities.

§ 201.29. Resident rights.

(a) The governing body of the facility shall establish written policies consistent with federal and state regulations regarding the rights and responsibilities of residents and, through the administrator, shall be responsible for development of and adherence to procedures implementing the policies.

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

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

(d) The staff of the facility shall be trained and involved in the implementation of the policies and procedures. The residents of the facility shall be involved in development of the facility’s policies and procedures and in their implementation. At least annually, the staff shall receive training, including training on residents’ rights by the LTC Ombudsman and training on prevention, detection, and reporting of abuse, neglect, and exploitation.

(e) The resident or if the resident lacks decisional capacity is not competent, the resident’s responsible person/resident representative shall be informed verbally and in writing prior to, or at the time of admission, of services available in the facility and of charges covered and not covered by the per diem rate of the facility. If changes in the charges occur during the resident’s stay, the resident shall be advised verbally and in writing reasonably in advance of the change. “Reasonably in advance” shall be interpreted to be 30 days unless circumstances dictate otherwise. If a facility requires a security deposit, the written procedure or contract that is given to the resident or resident’s resident representative/responsible person shall indicate how the deposit will be used and the terms for the return of the money. A security deposit is not permitted for a resident receiving Medical Assistance (MA).

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

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

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

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

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

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

   (1) When the resident is adjudicated incapacitated by a court.

   (2) As Pennsylvania law otherwise authorizes. In the case of a resident adjudged legally incapacitated by a court of competent jurisdiction, the rights of the resident devolve to and are exercised by the resident representative appointed under State law to act on the resident's behalf. The court-appointed resident representative exercises the resident's rights to the extent judged necessary by a court of competent jurisdiction, in accordance with State law.

   (i) In the case of a resident representative whose decision-making authority is limited by State law or court appointment, the resident retains the right to make those decision outside the representative's authority.

   (ii) The resident's wishes and preferences must be considered in the exercise of rights by the representative.

   (iii) To the extent practicable, the resident must be provided with opportunities to participate in the care planning process.

   (iv) The resident shall retain the right to visitors and to their choice of visitors, except where a court order restricts this right. At any time that visitation is restricted, the resident retains the right to identify at least one essential caregiver to visit in-person following all necessary safety protocols to provide needed care, support, and oversight. The facility may not prohibit admission of any essential caregiver that is following the facility’s required safety protocols.

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

   (n) The facility shall post in a conspicuous place near the entrances and on each floor of the facility a notice which sets forth the list of resident’s rights. The facility shall on admission provide a resident or resident’s responsible person with a personal copy of the notice. In the case of a resident who cannot read, write or understand English, arrangements shall be made to ensure that this policy is fully communicated to the resident. A certificate of the provision of personal notice as required in this section shall be entered in the resident’s clinical record.

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

(2) Exposes the resident to pain, injury, invasion of privacy or asks the resident to surrender autonomy, such as a drug study.

(p) Residents have the right to receive care in accordance with their person-centered service plan and in compliance with a person-centered approach.

(q) Residents have the right to have recognition of their families of choice and domestic partnerships the same as traditional family units and marriages.

(r) Residents have the right to go to their hospital of choice even if the facility has a transfer agreement with other hospitals and/or that facilities must inform residents or their resident representative of the facility’s transfer agreements upon admission.

(s) Residents must be provided with annual resident rights training by the LTC ombudsman.

(t) Residents shall have the right to bring a private right of action, which the facility shall not ask them to waive.

(u) Residents must be provided with written notice of residents’ rights and responsibilities and payment policies, including filial responsibility and estate recovery rules that may apply as well as information about the right to choose whether to have the facility serve as the resident’s representative payee for Social Security.

(v) Residents must be informed about bed hold policies prior to a transfer to a hospital and must be provided information on how the facility tracks each full 24 hour period in which the resident is absent from the facility.

(w) Residents have the right to be free from discrimination on the basis of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the Pennsylvania Human Relations Act (PHRA) and applicable federal laws.

(x) Residents have the right to privacy. LGBT residents have the right to decide who knows about their sexual orientation and gender identity, and if, when or how they choose to come out. Outing a resident or disclosing their gender history, sexual orientation or HIV status without their consent is prohibited.

(y) Residents have the right to be free from restraints except where medically ordered, and are the least restrictive alternative, and as outlined in the resident’s person-centered service plan.

§ 201.30. Access requirements.
(a) The facility may not limit physical or other forms of access (including telephonic, videographic, and electronic) to a resident when the interdisciplinary care team has determined it may be a detriment to the care and well-being of the resident in the facility, except in accordance with state and federal public health mandates or court orders. The facility may not restrict the right of the resident to have legal representation or to visit with the representatives of the Department of Aging or local Long-Term Care Ombudsman Program. A facility may not question an attorney representing the resident or representatives of the Department, or the Department of Aging Ombudsman Program, as to the reason for visiting or otherwise communicating with the resident.

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

(c) The facility may not limit access to the facility for the Department, the Department of Human Services, the Long-Term Care Ombudsman Program, Protective Services, Protection and Advocacy, Law Enforcement, and others with legal authority to enter.

§ 201.31. Transfer agreement.

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

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

§ 201.32. [Reserved].

§ 201.33. [Reserved].

§ 201.34. [Reserved].

§ 201.35. [Reserved].
CHAPTER 203. APPLICATION OF LIFE SAFETY CODE FOR LONG-TERM CARE NURSING FACILITIES

Sec.
203.2. [Reserved].
203.3. [Reserved].


A facility shall meet the applicable edition of National Fire Protection Association 101 Life Safety Code which is currently adopted by the Department. A facility previously in compliance with prior editions of the Life Safety Code is deemed in compliance with subsequent Life Safety Codes except renovation or new construction shall meet the current edition adopted by the Department.

§ 203.2. [Reserved].

§ 203.3. [Reserved].

CHAPTER 205. PHYSICAL PLANT AND EQUIPMENT STANDARDS FOR LONG-TERM CARE NURSING FACILITIES

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205.88. [Reserved].

205.89. [Reserved].

205.90. [Reserved].

205.91. [Reserved].

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.

§ 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. Building plans.

(a) There may be no new construction of a facility without the Department’s approval of final plans. There may be no alterations or additions to an existing building or conversion of a building or facility made prior to the Department’s approval of final plans.

(b) Plans, including architectural, mechanical and electrical plans, shall include requested changes and shall be submitted to the Department for final approval before construction, alterations or remodeling begins.

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

(d) Plans shall be resubmitted to the Department for approval if construction or alteration has not been started within 24 months from the date the plans received final approval.

(e) Plans submitted to the Department for approval shall include the following items:

(1) Wall sections and details, including stairs, location and fastening of handrails and grab bars.

(2) Mechanical and electrical drawings.

(3) Schedules of room finishes, door type and size, plumbing fixtures, electrical fixtures and special equipment, such as sterilizers, kitchen equipment and the like.

(4) Site plan—1 inch equals 40 feet—indicating new and existing structures, roads, services, walls and north arrow.
(5) Floor plans using a minimum of 1/8 inch scale.

(6) One-fourth inch scale layout: main kitchen, nurse’s station, utility room, physical therapy room, occupational therapy room and the like.

(7) One-fourth inch scale layout: typical bedroom, indicating window, door, radiator, air conditioner, electrical outlets, permanent fixtures, furniture placement or other pertinent information; typical bathroom; and a toilet room.

(8) Exterior elevation.

(9) Wall section, typical.

(10) Plans shall be on drawing sheets at least 15 by 24 inches and not exceed 32 by 42 inches in size including the borders.

§ 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.

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

MINIMUM PHYSICAL PLANT 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 areas may be used for other purposes, such as physical therapy, central supply, occupational therapy and the like.

§ 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].


(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.

(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.

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].


(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.

(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.

(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.

205.20a Configurations for Infection Control

(a) Consistent with their Department-approved Emergency, Pandemic, and Disaster Preparedness Plans, facilities may repurpose rooms as necessary for cohorting residents and staff and implementing infection controls during an outbreak of infection.

(b) Residents may be moved from their bedroom to another bedroom as part of a cohorting effort related to infection control. Residents retain the right not to be moved unnecessarily and to be moved as few times as necessary to ensure the infection control goals of cohorting.

§ 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 as set forth in § 205.66 (relating to special ventilation requirements for new construction). For new construction, there shall be an adjoining private bathroom which contains a toilet, lavatory and either a standard size tub or a shower.

(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 adequate provisions are made for resident comfort and safety.

§ 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.
(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.


(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, including space for and sufficient supplies of personal protective equipment.

(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.

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

(5) Hand sanitization facilities or stations.

(6) Infection prevention and control supplies.

§ 205.29. [Reserved].

§ 205.30. [Reserved].

§ 205.31. Storage.

General storage space shall be provided for storage of supplies, personal protective equipment, 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.

(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.

(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]. Hand Sanitization Stations.

(a) Stations for hand cleaning and sanitizing shall be installed outside every bedroom and at least every 20 feet in hallways and common areas.

§ 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, AND ELECTRONIC REQUIREMENTS

§ 205.61. Heating requirements for existing and new 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.

§ 205.62. Special heating requirements for new construction.

(a) Boiler feed pumps, heat circulating pumps, condensate return pumps and fuel oil pumps shall be connected and installed so that the total load can be carried by the remaining pumps with one pump out of service.
(b) To prevent shutting down the entire system when repairs are required, supply and return mains and risers of cooling, heating and process steam systems shall be valved to isolate the various sections of the system. Each piece of equipment shall be valved at the supply and return.

§ 205.63. Plumbing and piping systems required for existing and new 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. Special plumbing and piping systems requirements for new construction.

(a) Plumbing systems shall be installed to meet the requirements of local plumbing codes and Chapter 14, Medical Care Facility Plumbing Equipment, of the PHCC National Standard Plumbing Code. Sections 14.22 and 14.23 of the PHCC National Standard Plumbing Code are not mandatory, but are recommended. If the codes listed in this subsection conflict, the most stringent requirement shall apply.

(b) Approved backflow preventers or vacuum breakers shall be installed with plumbing fixtures or equipment where the potable water supply outlet may be submerged and which is not protected by a minimum air gap. This includes hose bibs, janitor sinks, bedpan-flushing attachments and other fixtures to which hoses or tubing can be attached.

(c) Each water service main, branch main, riser and branch to a group of fixtures shall be valved. Stop valves shall be provided at each fixture.

(d) Shower bases and tubs shall provide nonskid surfaces for standing residents.

§ 205.65. [Reserved].

§ 205.66. Special ventilation requirements for new construction.

(a) Ventilation for new construction shall conform to the following:
(b) **HEPA air filtration systems must be installed as part of disease and infection control efforts.** Central air systems shall be provided with filters having a minimum efficiency of 25% based on ASHRAE Standard No. 52-68 and certified by an independent testing agency. Central air systems shall have a manometer installed across each filter bed.

(c) Air supply systems shall be operated mechanically. Air exhaust and return systems shall be operated mechanically, except for air not required to be exhausted directly outdoors as indicated in subsection (a). Where subsection (a) requirements for outdoor air is optional, this air may be supplied directly by transfer ducts or grilles to adjacent spaces without being filtered through a central system. Air may not be transferred to or from corridors, to or from adjacent spaces, except as permitted in the applicable edition of the National Fire Protection Association 101 *Life Safety Code* which is currently adopted by the Department.

(d) The dietary dry storage and kitchenware washing rooms may use direct air from the kitchen without being filtered through a central system.

(e) The ventilation rates indicated in subsection (a) are minimum mandatory rates for the area listed and may not be construed as precluding the use of higher rates. For areas not listed, such as dining rooms, lounge and recreation rooms, solaria, and the like, mechanical ventilation rates are optional, but where mechanical ventilation is provided, the supply air shall be obtained from the outdoors through individual room units or from central systems. The unlisted room areas, if ventilated, shall contain an equal pressure relationship.
(f) Where mechanical ventilation is not mandatory or provided, the areas may be ventilated by outside windows that can be easily opened and closed.

(g) Outdoor air intakes may be no less than 25 feet from waste air discharges, such as discharge from ventilation systems, combustion stacks, plumbing vents, vehicle exhaust and the like. The bottom of outdoor air intakes serving central systems and kitchens may not be less than 3 feet above the finished grade or roof level.

(h) Ventilation air openings which are located near floors shall be installed not less than 3 inches above the finished floor.

(i) Air quantities in cubic feet per minute shall be indicated on the drawings for room supply, return and exhaust ventilation openings.

205.66a. Special ventilation requirements for existing construction.

(a) HEPA air filtration systems must be installed or mobile HEPA air filtration devices must be employed in existing construction. HEPA air filtration systems and devices must be adequate and rated as appropriate for the size of the spaces in which they are used. Filters for HEPA air filtration systems and devices must be replaced in accordance with manufacturer specifications.

§ 205.67. Electric requirements for existing and new 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.

(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. Special electrical requirements for new construction.

(a) Electrical systems and equipment shall comply with the latest edition of the National Electrical Code, NFPA 70. If local or State codes are more stringent, the more stringent requirements apply.

(b) Materials comprising the electrical systems shall be listed as complying with applicable standards of the Underwriters’ Laboratories, Inc., or other similarly established standards.

(c) Minimum lighting levels for long-term care nursing facilities shall conform with the following:

<table>
<thead>
<tr>
<th>Area</th>
<th>Footcandles</th>
</tr>
</thead>
<tbody>
<tr>
<td>Corridors and interior ramps</td>
<td>20</td>
</tr>
<tr>
<td>Stairways other than exits</td>
<td>30</td>
</tr>
<tr>
<td>Exit stairways and landings</td>
<td>5 on floor</td>
</tr>
<tr>
<td>Doorways</td>
<td>10</td>
</tr>
<tr>
<td>Administrative and lobby areas, day</td>
<td>50</td>
</tr>
<tr>
<td>Area</td>
<td>Square Feet</td>
</tr>
<tr>
<td>----------------------------------------------------</td>
<td>-------------</td>
</tr>
<tr>
<td>Administrative and lobby areas, night</td>
<td>20</td>
</tr>
<tr>
<td>Chapel or quiet area</td>
<td>30</td>
</tr>
<tr>
<td>Physical therapy</td>
<td>20</td>
</tr>
<tr>
<td>Occupational therapy</td>
<td>30</td>
</tr>
<tr>
<td>Worktable, coarse work</td>
<td>100</td>
</tr>
<tr>
<td>Worktable, fine work</td>
<td>200</td>
</tr>
<tr>
<td>Recreation area</td>
<td>50</td>
</tr>
<tr>
<td>Dining area</td>
<td>30</td>
</tr>
<tr>
<td>Resident care unit (or room) general</td>
<td>10</td>
</tr>
<tr>
<td>Resident care room, reading</td>
<td>30</td>
</tr>
<tr>
<td>Nurses’ station, general, day</td>
<td>50</td>
</tr>
<tr>
<td>Nurses’ station, general, night</td>
<td>20</td>
</tr>
<tr>
<td>Nurses’ desk, for charts and records</td>
<td>70</td>
</tr>
<tr>
<td>Nurses’ medicine cabinet</td>
<td>100</td>
</tr>
<tr>
<td>Utility room, general</td>
<td>20</td>
</tr>
<tr>
<td>Utility room, work counter</td>
<td>50</td>
</tr>
<tr>
<td>Pharmacy area, general</td>
<td>30</td>
</tr>
<tr>
<td>Pharmacy, compounding and dispensing areas</td>
<td>100</td>
</tr>
<tr>
<td>Janitor’s closet</td>
<td>15</td>
</tr>
<tr>
<td>Toilet and bathing facilities</td>
<td>30</td>
</tr>
</tbody>
</table>
(d) The applicable standards for lighting levels are those established by the current edition of the Illuminating Engineering Society of North America (IES) Lighting Handbook.

**205.69 Electronic Requirements**

A facility shall have wifi, broadband, and internet technology as well as devices for the facility, staff, and residents to use in operating the facility and communicating with individuals outside of the facility.

**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.

(a) Adequate supplies shall be available at all times to meet the residents’ needs and wellbeing.

(b) Adequate supplies shall be available at all times to protect residents and staff from infection or other contagious disease. This shall include a pre-determined facility-specific stockpile of personal protective equipment with burn rate tracking for replenishing supplies.

§ 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].

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

HOUSEKEEPING AND MAINTENANCE

207.1. [Reserved].

207.2. Administrator’s responsibility.

207.3. [Reserved].

207.4. Ice containers and storage.

207.5. [Reserved].

HOUSEKEEPING AND MAINTENANCE

§ 207.1. [Reserved].

§ 207.2. Administrator’s responsibility.

(a) The administrator shall be responsible for satisfactory housekeeping and maintenance of the buildings and grounds.

(b) Nursing personnel may not be assigned housekeeping duties that are normally assigned to housekeeping personnel.

(c) The administrator must ensure that housekeeping and maintenance staff are properly trained in infection control and that they operate at all times in accordance with the infection control instructions of the facility’s infection preventionist.

§ 207.3. [Reserved].

§ 207.4. Ice containers and storage.

Ice storage containers shall be kept clean, and ice shall be handled in a sanitary manner to prevent contamination.
§ 207.5. [Reserved].

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

FIRE PROTECTION AND RESIDENT SAFETY

Sec.

209.1. Fire department service and other emergency contact information.

209.2. [Reserved].

209.3. Smoking.

209.4. [Reserved].

209.5. [Reserved].

209.6. [Reserved].

209.7. Emergency, Pandemic, and Disaster preparedness.

209.8. Fire drills.

FIRE PROTECTION AND RESIDENT SAFETY

§ 209.1. Fire department service and other emergency contact information.

The telephone number of the state and local emergency services serving the facility shall be posted by the telephones in each nursing station, office and appropriate place within the facility.

§ 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 the 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) Proper safeguards shall be taken against the fire hazards involved in smoking.

(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) Smoking is prohibited in a room, ward or compartment where flammable liquids, combustible gases or oxygen is used or stored, and in other hazardous locations. The areas shall be posted with “NO SMOKING” signs.

(f) Ash trays of noncombustible material and safe design shall be provided in areas where smoking is permitted.

(g) Noncombustible containers with self-closing covers shall be provided in areas where smoking is permitted.

(h) Smoking policies may prohibit smoking, however, these policies may only be implemented prospectively for residents such that residents admitted to the facility under an earlier smoking policy that permitted smoking must be grandfathered from any change in smoking policy and the resident’s smoking must be accommodated.

§ 209.4. [Reserved].

§ 209.5. [Reserved].

§ 209.6. [Reserved].

§ 209.7. Emergency, Pandemic, and Disaster preparedness.

(a) The facility shall have a comprehensive written plan that addresses Emergency, Pandemic, and Disaster Preparedness. The Emergency, Pandemic, and Disaster Plan must:

i. Address fire safety, natural disaster, physical plant disaster, person-made disaster, health outbreak and pandemics, active shooter, and other emergencies.

ii. Be submitted to the Department for prior approval as part of initial licensure and must be available for surveyor review at least annually.

iii. disaster plan which shall bBe developed and maintained with the assistance of qualified fire, safety, infection control, and other appropriate experts.

iii. Account for the handling of both short and long-term situations. For disasters/emergencies that last more than a day, the Emergency, Pandemic, and Disaster plan must include:

a. How the facility will communicate daily with residents, families, and resident representative during the emergency, pandemic, or disaster and at least weekly during periods when the emergency, pandemic, or disaster has subsided but before operations have returned to normal.
b. How the facility will ensure sufficient supplies to safely and appropriately meet the needs of residents and staff.

c. For health-related emergencies, pandemics, or disasters, how the facility will safely and appropriate separate those staff and residents affected or infected from those not or whose status is unknown.

d. How the facility will provide back-up staffing in response to the emergency, pandemic, or disaster.

e. How and when the facility will test their Emergency, Pandemic, and Disaster Preparedness through drills.

f. When the facility will review and update their Emergency, Pandemic, and Disaster Plan.

iv. It shall include procedures for prompt transfer of casualties and records, instructions regarding the location and use of alarm systems and signals and fire fighting equipment, information regarding methods of containing fire, procedures for notification of appropriate persons and specifications of evacuation routes and procedures.

(b) The written plan shall be made available to and reviewed with personnel, and it shall be available at each nursing station and in each department. The plan shall be reviewed periodically to determine its effectiveness.

(bc) A diagram of each floor showing corridors, line of travel, exit doors and location of the fire extinguishers and pull signals shall be posted on each floor in view of residents and personnel.

d(e) All personnel shall be instructed in the operation of the various types of fire extinguishers used in the facility.

§ 209.8. Fire and safety drills.

(a) Fire drills shall be held monthly. Fire drills shall be held at least four times per year per shift at unspecified hours of the day and night.

(b) A written report shall be maintained of each fire and safety drill which includes date, time required for evacuation or relocation, number of residents evacuated or moved to another location and number of personnel participating in a fire drill.

(c) Emergency, Pandemic, and Disaster response drills shall be held in accordance with the facility’s approved Emergency, Pandemic, and Disaster Plan.
CHAPTER 211. PROGRAM STANDARDS FOR LONG-TERM CARE NURSING FACILITIES

Sec.

211.1. Reportable diseases.

211.2. Physician services.

211.3. Oral and telephone orders.

211.4. Procedure in event of death.

211.5. Clinical records.

211.6. Dietary services.

211.7. Physician assistants and certified registered nurse practitioners.

211.8. Use of restraints.

211.9. Pharmacy services.

211.10. Resident care policies.

211.11. Resident care plan.

211.12. Nursing services and staffing minimums and baseline ratios.

211.13. [Reserved].

211.14. [Reserved].

211.15. Dental services.

211.16. Social services.

211.17. Pet therapy.

211.18. [Reserved].

211.19. [Reserved].

211.20. [Reserved].

211.21. [Reserved].

211.22. [Reserved].

§ 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 and lice 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 Enterocci (VRE) and Vancomycin-Resistant Staphylococcus Epidermidis (VRSE) shall be reported to the appropriate Division of Nursing Care Facilities field office.

(d) Outbreaks of COVID-19 and other pandemic outbreaks shall be reported to Department of Health and other agencies at the direction of the Department of Health in the manner, frequency, and format required by the Department of Health. Outbreaks shall be defined as one or more cases of resident or staff infection.

§ 211.2. Physician services.

(a) The attending physician shall be responsible for the medical evaluation of the resident and shall prescribe a planned regimen of total resident care.

(b) The facility shall have available, prior to or at the time of admission, resident information which includes current medical findings, diagnoses and orders from a physician for immediate care of the resident. The resident’s initial medical assessment shall be conducted no later than 14 days after admission and include a summary of the prior treatment as well as the resident’s rehabilitation potential.

(c) A facility shall have a medical director who is licensed as a physician in this Commonwealth and who is responsible for the overall coordination of the medical care in the facility to ensure the adequacy and appropriateness of the medical services provided to the residents. The medical director may serve on a full- or part-time basis depending on the needs of the residents and the facility and may be designated for single or multiple facilities. There shall be a written agreement between the physician and the facility.

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

(1) Documented review of incidents and accidents that occur on the premises and addressing the health and safety hazards of the facility. The medical director shall evaluate the incidents and accidents for need in a change in residents’ care plans and possible systems modifications to
avoid future incidents and accidents. The administrator shall be given appropriate information from the medical director to help insure a safe and sanitary environment for residents and personnel.

(2) Development of written policies which are approved by the governing body that relate to resident medical care and delineate the responsibilities of attending physicians. The medical director shall, on at least an annual basis, evaluate the care being delivered by attending physicians to ensure consistency with the facility’s clinical practices and standards of care. This evaluation shall identify performance expectations for attending physicians as well as facilitating feedback based on performance and practices. If a health care practitioner is providing care inconsistent with current standards of care, the medical director must intervene as appropriate.

(3) Participate in quality assurance and performance improvement meetings.

(4) Utilize evidence-based best practices related to the care of nursing home residents and how to oversee and communicate with other health care practitioners.

(5) Assist with developing and implementing staff education.

(6) Identify potential conflicts of interest and implement steps to mitigate any such conflicts. Conflicts of interest should be reviewed and addressed through the facility’s Compliance and Ethics Program.

(e) Medical director communication and interactions with residents and resident representatives shall be person-centered and conducted in a manner easily understood by the specific resident, providing in the form, format, and language of the resident’s need or preference.

§ 211.3. Oral and telephone orders.

(a) A physician’s oral 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. Written orders may be by fax.

(b) A physician’s oral and telephone orders for care and treatments, shall be dated and countersigned with the original signature of the physician within 7 days of receipt of the order. If the physician is not the attending physician, he shall be authorized and the facility so informed by the attending physician and shall be knowledgeable about the resident’s condition.

(c) A physician’s telephone and oral orders for medications shall be dated and countersigned by the prescribing practitioner within 48 hours. Oral orders for Schedule II drugs are permitted only in a bona fide emergency.
(d) Oral orders for medication or treatment shall be accepted only under circumstances where it is impractical for the orders to be given in a written manner by the responsible practitioner. An initial written order as well as a countersignature may be received by a fax which includes the practitioner’s signature.

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

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

(2) A requirement that all oral orders be stated clearly, repeated by the issuing practitioner, and be read back in their entirety by personnel authorized to take the oral order.

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

(4) The policy on fax transmissions.

§ 211.4. Procedure in event of death.

(a) Written postmortem procedures shall be available at each nursing station.

(b) Documentation shall be on the resident’s clinical record that the next of kin, guardian or responsible party/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. Clinical records.

(a) Clinical records shall be available to, but not be limited to, representatives of the Department of Aging Ombudsman Program.

(b) Information contained in the resident’s record shall be privileged and confidential. Written consent of the resident, or of a designated responsible agent acting on the resident’s behalf, is required for release of information. Written consent is not necessary for authorized representatives of the State and Federal government during the conduct of their official duties.

(c) Records shall be retained for a minimum of 7 years following a resident’s discharge or death.

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

(e) When a facility closes, resident clinical 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 clinical records and shall notify the Department of how the records may be obtained.

(f) At a minimum, the resident’s clinical record shall include physicians’ orders, observation and progress notes, nurses’ notes, medical and nursing history and physical examination reports; identification information, admission data, documented evidence of assessment of a resident’s needs, establishment of an appropriate treatment plan and plans of care and services provided; hospital diagnoses authentication—discharge summary, report from attending physician or transfer form—diagnostic and therapeutic orders, reports of treatments, clinical findings, medication records and discharge summary including final diagnosis and prognosis or cause of death. The information contained in the record shall be sufficient to justify the diagnosis and treatment, identify the resident and show accurately documented information.

(g) Symptoms and other indications of illness or injury, including the date, time and action taken shall be recorded.

(h) Each professional discipline shall enter the appropriate historical and progress notes in a timely fashion in accordance with the individual needs of a resident.

(i) The facility shall assign overall supervisory responsibility for the clinical 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 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) Sufficient food to meet the nutritional needs of residents shall be prepared as planned for each meal. There shall be at least 3 days’ supply of food available in storage in the facility at all times.

(c) Overall supervisory responsibility for the dietary services shall be assigned to a full-time qualified dietary services supervisor.

(d) If consultant dietary services are used, the consultant’s visits shall be at appropriate times and of sufficient duration and frequency to provide continuing liaison with medical and nursing staff, advice to the administrator, resident counseling, guidance to the supervisor and staff of the dietary services, approval of menus, and participation in development or revision of dietary policies and procedures and in planning and conducting inservice education and programs.
(e) A current therapeutic diet manual approved jointly by the dietitian and medical director shall be readily available to attending physicians and nursing and dietetic service personnel.

(f) Dietary personnel shall practice hygienic food handling techniques and follow all facility infection control protocols. An employe shall wear clean outer garments, maintain a high degree of personal cleanliness and conform to hygienic practices while on duty. Employes 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) Physician assistants and certified registered nurse practitioners may be utilized in facilities, in accordance with their training and experience and the requirements in statutes and regulations governing their respective practice.

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

   (1) There shall be written policies indicating the manner in which the physician assistants and certified registered nurse practitioners shall be used and the responsibilities of the supervising physician.

   (2) There shall be a list posted at each nursing station 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) Physician assistants’ documentation on the resident’s record shall be countersigned by the supervising physician within 7 days with an original signature and date by the licensed physician. This includes progress notes, physical examination reports, treatments, medications and any other notation made by the physician assistant.

(d) Physicians shall countersign and date their verbal orders to physician assistants or certified registered nurse practitioners within 7 days.
(e) This section may not be construed to relieve the individual physician, group of physicians, physician assistant or certified registered nurse practitioner of responsibility imposed by statute or regulation.

§ 211.8. Use of restraints.

(a) Residents have the right to be free of physical, mechanical, and chemical restraints.

(b) Restraints are prohibited unless

(i) authorized in accordance with state and federal law,

(ii) ordered by a physician as appropriate to treat the individual’s medical condition,

(iii) consented to by the resident or resident’s representative, and

(iv) approved by the resident’s person-centered service planning interdisciplinary team as part of the resident’s written person-centered service plan and must include a written demonstration that less restrictive alternative means of controlling movement or behavior do not work. The person-centered service plan must outline how and when restraints are approved.

(c) Restraints may not be used in lieu of staff effort or adequate staffing levels to meet residents’ needs.

(d) Locked restraints or any mechanical apparatus or device, such as shackles, straightjackets, cage-like enclosures or other similar devices, employed to restrict voluntary movement of a person that is not removable by that person may not be used.

(e) Restraints may not be used or applied in a manner which causes injury to the resident.

(f) Physical and mechanical restraints shall be removed at least 10 minutes out of every 2 hours during the normal waking hours to allow the resident an opportunity to move and exercise. Except during the usual sleeping hours, the resident’s position shall be changed at least every 2 hours. During sleeping hours, the position shall be changed as indicated by the resident’s needs.

(g) 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. It shall include the period for which the restraint is being authorized and the circumstances under which the restraints may be used. All other circumstances are prohibited and a violation of the resident’s right to be free of restraints.

(h) 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.

(if) Every 30 days, or sooner if necessary, the interdisciplinary team shall review and reevaluate the use of all restraints ordered by physicians. Residents’ person-centered services plan shall be updated to reflect the outcomes of these reviews.

(j) Any chemical restraints must be closely monitored to ensure no adverse reactions.

(k) The facility shall document daily all uses of restraints, including dates and times and staff persons involved. These documents shall be stored and made available for inspection by the Department and others authorized to view these records.

§ 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) Only licensed pharmacists shall dispense medications for residents. Licensed physicians may dispense medications to the residents who are in their care.

(b) Medications shall be 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 shall be administered under the written orders of the attending physician.

(e) Each resident shall have a written physician’s order for each medication received. This includes both proprietary and nonproprietary medications.

(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’s responsible person, 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) If over-the-counter drugs are maintained in the facility, they shall bear the original label and shall have the name of the resident on the label of the container. The charge nurse may record the resident’s name on the nonprescription label. The use of nonprescription drugs shall be limited by quantity and category according to the needs of the resident. Facility policies shall indicate the procedure for handling and billing of nonprescription drugs.

(h) If a unit of use or multiuse systems are used, applicable statutes shall be met. Unit of use dispensing containers or multiuse cards shall be properly labeled. Individually wrapped doses shall be stored in the original container from which they were dispensed.

(i) At least quarterly, outdated, deteriorated or recalled medications shall be identified and returned to the dispensing pharmacy for disposal in accordance with acceptable professional practices. Written documentation shall be made regarding the disposition of these medications.

(j) Disposition of discontinued and unused medications and medications of discharged or deceased residents shall be handled by facility policy which shall be developed in cooperation with the consultant pharmacist. The method of disposition and quantity of the drugs shall be documented on the respective resident’s chart. The disposition procedures shall be done at least quarterly under Commonwealth and Federal statutes.

(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. 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 and refill of the kits.

(2) The quantity and categories of medications and equipment in the kits shall be kept to a minimum and shall be based on the immediate needs of the facility.

(3) The emergency medication kits shall be under the control of a practitioner authorized to dispense or pre-scribe medications under the Pharmacy Act (63 P. S. § 390.1—390.13).

(4) The kits shall be kept readily available to staff and shall have a breakaway lock which shall be replaced after each use.

§ 211.10. Resident care policies.

(a) Resident care policies shall be available to admitting physicians, sponsoring agencies, residents and the public, shall reflect an awareness of, and provision for, meeting the total medical and psychosocial needs of residents. The needs include admission, transfer and discharge planning.

(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.

(e) At least annually, the facility must solicit input from residents and resident representatives about the creation and implementation of resident care policies. The facility shall record the input and maintain a record of how input was incorporated into policies.

(f) All personnel shall practice hygienic best practices in delivering resident care, as identified by the infection preventionist and as communicated through written facility policy and ongoing personnel training. All personnel 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.

§ 211.11. Resident care person-centered service plan.
(a) The facility shall designate an individual to be responsible for the coordination and implementation of a written resident care service plan through a person-centered service planning process. This responsibility shall be included as part of the individual’s job description.

(b) The individual responsible for the coordination and implementation of the resident care service plan shall be part of the interdisciplinary team. The interdisciplinary team shall include individuals selected by the resident and/or resident’s representative and shall meet at least every three months, at the request of the resident and/or resident’s representative, or upon a change in condition to revisit and revise, if necessary, the resident service plan. For residents that have insurance coverage of their nursing facility care, the resident should be encouraged to include in their interdisciplinary team, the insurance company’s service coordinator, if applicable.

(c) The facility shall ensure an educational strategy to ensure staff have the knowledge and skills to understand and implement person-centered planning and care.

(d) A registered nurse shall be responsible for developing the nursing assessment portion of the resident care-service plan.

(ed) The resident care-service plan shall be available at all times for use by personnel caring for the resident. Staff are required to acquaint themselves with and refer back to the person-centered service plans for all residents to ensure that needs and preferences are being met. Facility policy must require that person-centered care be provided and person-centered service plans be honored at all times, even during a pandemic or other disaster.

(f) The resident, when able, and where desired by the resident, family and resident representative, shall participate in the development and review of the person-centered service plan. The resident or their representative is the center of the interdisciplinary team’s person-centered service planning process. The process should maximize the decision-making and participation of residents at all levels of cognitive functioning. Residents who have a legal guardian must have the opportunity to address any concerns.

(g) The person-centered planning process must be conducted by providing information in plain language and in a manner that is accessible to individuals with disabilities and persons who do not speak English.

(h) At a minimum, Person-Centered service plans must:

i. Include preferences around social interaction, with specific planning focused on supporting the resident during periods of prolonged isolation

ii. Ensure human dignity

iii. Reflect the individuality, values, and cultural considerations of the resident
iv. Identify any unmet needs while including clear language as to how staff can provide proper support to meet these needs.

v. Identify and support ongoing opportunities for meaningful engagement, support interests and preferences, and allow for choice.

§ 211.12. Nursing services and staffing minimums and baseline ratios.

(a) The facility shall provide services by sufficient numbers of personnel on a 24-hour basis to provide nursing care to meet the needs of all residents.

(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 staff, 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 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 registered nurse who is responsible for overseeing total nursing activities within the facility on each tour of duty each day of the week.

(f) The following minimum nursing and nurse aide staffing ratios and minimum staffing levels are minimums. Actual staffing levels, which shall meet or exceed the minimum levels, must be determined specifically for each facility based on the actual needs of each resident as outlined in their comprehensive assessments and person-centered service plans, as well as in accordance with the facility assessment required in 42 CFR 438.70(e), which facilities shall be required to complete quarterly.

(g) In addition to the director of nursing services, the following daily professional staff shall be available.
(1) The following minimum nursing staff ratios are required:

Day shifts.--With respect to a day shift, the nursing facility must have—

- at least 1 registered professional nurse for every 28 residents, with a minimum of 0.29 hours of care provided per resident during each such shift;
- at least 1 licensed practical nurse for every 40 residents, with a minimum of 0.20 hours of care provided per resident during each such shift; and
- at least 1 nurse aide for every 7 residents, with a minimum of 1.14 hours of care provided per resident during each such shift.

Evening shifts.--With respect to an evening shift, the nursing facility must have—

- at least 1 registered professional nurse for every 30 residents, with a minimum of 0.26 hours of care provided per resident during each such shift;
- at least 1 licensed practical nurse for every 40 residents, with a minimum of 0.20 hours of care provided per resident during each such shift; and
- at least 1 nurse aide for every 7 residents, with a minimum of 1.14 hours of care provided per resident during each such shift.

Night shifts.--With respect to a night shift, the nursing facility must have—

- at least 1 registered professional nurse for every 40 residents, with a minimum of 0.20 hours of care provided per resident during such shift;
- at least 1 licensed practical nurse for every 56 residents, with a minimum of 0.14 hours of care provided per resident during such shift; and
- at least 1 nurse aide for every 15 residents, with a minimum of 0.53 hours of care provided per resident during such shift.

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<th>Census</th>
<th>Day</th>
<th>Evening</th>
<th>Night</th>
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<tbody>
<tr>
<td>59 and under</td>
<td>1-RN</td>
<td>1-RN</td>
<td>1-RN or 1-LPN</td>
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<tr>
<td>60/150</td>
<td>1-RN</td>
<td>1-RN</td>
<td>1-RN</td>
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<tr>
<td>151/250</td>
<td>1-RN and 1-LPN</td>
<td>1-RN and 1-LPN</td>
<td>1-RN and 1-LPN</td>
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(2) When the facility designates an LPN as a nurse who is responsible for overseeing total nursing activities within the facility on the night tour of duty in facilities with a census of 59 or under, a registered nurse shall be on call and located within a 30 minute drive of the facility.

(g) There shall be at least one nursing staff employee on duty per 20 residents.

(h) At least two nursing service personnel shall be on duty.

(i) A minimum number of general nursing care hours shall be provided for each 24-hour period. 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 4.12.7 hours of direct resident care for each resident. The total minimum of 4.1 hours of general nursing care hours provided per resident per day, with 0.75 hours of care of such total minimum provided by a registered professional nurse, 0.54 hours of care of such total minimum provided by a licensed practical nurse or an RN, and 2.81 hours of care of such total minimum provided by a nursing assistant.

(j) Nursing personnel shall be provided on each resident floor.

(k) Weekly time schedules shall be maintained and shall indicate the number and classification of nursing personnel, including relief personnel, who worked on each tour of duty on each nursing unit.

(l) The Department may require an increase in the number of nursing and other personnel from the minimum requirements if specific situations in the facility—including, but not limited to, the physical or mental condition of residents, quality of nursing care administered, the location of residents, the location of the nursing station and location of the facility—indicate the departures as necessary for the welfare, well-being, health and safety of the residents.

(m) The required nursing services and staffing minimums and baseline ratios shall not be interpreted to minimize the facility’s requirement to have sufficient ancillary staff to provide services for the residents other than nursing services. Ancillary staff may include staff who meet the licensure requirements of being RNs, LPNs, dieticians, or skilled professionals but do not provide direct care. Ancillary staff may include activities planners, housekeepers, cooking staff
or facilities staff but also staff who conduct assessment, care planning or care management activities or serve as the full-time Infection Preventionist.

(n) Daily, the facility shall conspicuously and publicly post the actually staffing levels for all types of staff as scheduled for the day. This information shall be posted inside and outside the front door of the facility for residents and visitors to see.

§ 211.13. [Reserved]. Infection Preventionist

(a) Each facility must employ at least one full-time infection preventionist to plan for, implement, monitor, and oversee all infection control activities.

(b) The infection preventionist must be trained in infection prevention by an accredited training entity and qualified as a nursing professional.

The infection preventionist does not count as direct care, nursing services staff time as their focus is infection prevention.

§ 211.14. [Reserved]. Ancillary Staff

(a) The facility shall employ ancillary staff necessary to provide all necessary housekeeping, cooking, cleaning, infection prevention, activities, administrative, and care planning activities. Staff employed for these functions cannot be counted in staffing minimums and baseline ratios outlined in 211.12.

§ 211.15. Dental services.

(a) The facility shall assist residents in obtaining routine and 24-hour emergency dental care.

(b) The 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, supports, and minimizing isolation.

(a) The facility shall provide social services designed to promote preservation of the resident’s physical and mental health and to prevent the occurrence or progression of personal and social problems. Facilities with a resident census of more than 120 residents shall employ a qualified social worker on a full-time basis.

(b) In facilities with 120 beds or less that do not employ a full-time social worker, social work consultation by a qualified social worker shall be provided and documented on a regular basis.

(c) Each resident’s person-centered service plan shall identify what social services the resident wants and how the facility will provide or assist the resident. Additionally, the plan shall address
how to resident might be supported during any prolonged periods of isolation caused by pandemic, infection, or other contagious disease.

(d) The facility must have a meaningful plan to support residents and their social interaction using current technology and must have internet services to support this. Residents who are able should be taught how to self-manage technology.

(e) The facility shall consider current best practices in minimizing isolation as it plans its social services and resident supports.

§ 211.17. Pet therapy.

If pet therapy is utilized, the following standards apply:

(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 shall be made so they are not harmful or annoying to residents.

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

(4) Pets shall be carefully selected to meet the needs of the residents involved in the pet therapy program.

(5) The facility shall have written procedures established which will address the physical and health needs of the animals. Rabies shots shall be given to animals who are potential victims of the disease. Care of the pets may not be imposed on anyone who does not wish to be involved.

(6) Pets and places where they reside shall be kept clean and sanitary.

§ 211.18. [Reserved].

§ 211.19. [Reserved].

§ 211.20. [Reserved].

§ 211.21. [Reserved].

§ 211.22. [Reserved].

CHAPTER 213. [Reserved]
§ 213.1. [Reserved].
§ 213.2. [Reserved].
§ 213.3. [Reserved].
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§ 215.11. [Reserved].

CHAPTER 217. [Reserved]
§ 217.1. [Reserved].