

# Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY  
REVIEW COMMISSION

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(1) Agency

**Department of Health**

(2) Agency Number: **10**

Identification Number: **194**

IRRC Number: **3122**

(3) PA Code Cite:

**28 Pa. Code § 211.7**

(4) Short Title:

**Physician assistants and certified registered nurse practitioners**

(5) Agency Contacts (List Telephone Number and Email Address):

Attorneys: **Karin Simpson, Senior Counsel and Regulatory Coordinator**  
Department of Health  
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625 Forster Street  
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Primary Contact: **Ann Chronister, Bureau Director**  
**Bureau of Facility Licensure and Certification**  
(717) 787-8015  
[achroniste@pa.gov](mailto:achroniste@pa.gov)

Secondary Contact: **Susan Williamson, Director**  
**Division of Nursing Care Facilities**  
[suswilliam@pa.gov](mailto:suswilliam@pa.gov)

(6) Type of Rulemaking (check applicable box):

- Proposed Regulation  
 Final Regulation  
 Final Omitted Regulation

X No

- Emergency Certification Regulation;  
 Certification by the Governor  
 Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The regulation amends 28 Pa. Code § 211.7 (§ 211.7) to eliminate the 7-day physician countersignature requirement for all physician assistants' documentation on medical records of residents of long-term care nursing facilities and requires physician countersignature of physician assistants' documentation on resident medical records in accordance with requirements in statutes and regulations governing physician assistants' scope of practice.

(8) State the statutory authority for the regulation. Include specific statutory citation.

The Health Care Facilities Act (HCFA), 35 P.S. §§ 448.101 – 448.904b, authorizes the Department, after consultation with the Health Policy Board, to promulgate regulations necessary to carry out the purposes and provisions of the HCFA. 35 P.S. §§ 448.601 and 448.803(2). The HCFA seeks to promote the public health and welfare through the establishment of regulations setting minimum standards for the operation of health care facilities. The minimum standards are to assure safe, adequate, and efficient facilities and services, and promote the health, safety, and adequate care of patients or residents of such facilities. 35 P.S. § 448.801a. The General Assembly has also stated that a purpose of the HCFA is to assure that all citizens receive humane, courteous and dignified treatment. 35 P.S. § 102. Finally, the HCFA provides the Department with explicit authority to enforce its rules and regulations promulgated under the HCFA. 35 P.S. § 448.201(2).

The Department also has the duty to protect the health of the people of the Commonwealth of Pennsylvania under section 2102(a) of the Administrative Code of 1929. 71 P.S. §532(g).

(9) Is the regulation mandated by any Federal or state law or court order, or Federal regulation? Are there any relevant state or Federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

No. While the revision of § 211.7 is not mandated by state law, it follows recent amendments to the laws controlling scope of practice of physician assistants, as explained in greater detail in the response to #10.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

Until recently, neither the Medical Practice Act, 63 P.S. §§ 422.1 – 422.51, nor the Osteopathic Medical Practice Act, 63 P.S. §§ 271.1 – 271.18, both of which outline the scope of practice of a physician assistant, addressed patient record reviews by the supervising physician for patient records completed by a physician assistant. Acts 100 and 101 of 2013 amended the Medical Practice Act and the Osteopathic Medical Practice Act, respectively, to add provisions addressing patient record reviews and require countersignatures by the supervising physician in accordance with the following: the supervising physician is to countersign 100% of patient records completed by the physician assistant within a reasonable time, not to exceed 10 days, during (1) the first 12 months of the physician assistant's practice and after the physician assistant has fulfilled the criteria for licensure; (2) the first 12 months of the physician assistant's practice in a new specialty; and (3) the first 6 months of the physician assistant's practice in the same specialty under the supervision of the supervising physician. Otherwise, the supervising physician is to

personally review a selected number of patient records completed by the physician assistant; the records to be reviewed are to be selected on the basis of written criteria established by the physician and the physician assistant. See 63 P.S. § 422.13(d.1), (e), and 63 P.S. § 271.10(g), (j.1).

Section 211.7, prior to revision, required physician countersignature on all physician assistant documentation in the resident's medical record within 7 days. As revised, physician assistant documentation in the resident's medical record is to be countersigned in accordance requirements in statutes and regulations governing the physician assistant's scope of practice.

**Elimination of an overly prescriptive requirement applicable to the physician assistant practice in a nursing home practice setting will benefit physician assistants who practice in the nursing facility setting and their supervising physicians and, consequently, the nursing facilities and the nursing facility residents whose medical care they provide**

(11) Are there any provisions that are more stringent than Federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

**There are no federal standards for physician assistant scope of practice.**

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

**The regulation effectuates the amendment to Pennsylvania's practice acts for physician assistants in the nursing facility practice setting and is required, regardless the stance of other states with regard to physician assistant scope of practice. The revision to the regulation will not affect Pennsylvania's ability to compete with other states.**

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

**This regulation has been revised to comport with recent amendments to a statute implemented by the Department of State.**

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

**The Department presented the regulation to the Health Policy Board (Board) at its meeting on July 23, 2014, for review and comment, in accordance with provision in the Health Care Facilities Act permitting the Department to promulgate regulations after consultation with the Health Policy Board. The Board expressed no objection to the promulgation of the revised regulation. Advocacy groups for physician assistants have requested the revision to the regulation.**

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

**Persons:**

1. Residents of the 703 nursing care facilities in Pennsylvania.
2. Physician assistants and their supervising physicians.

<b>Medicine</b>	
<b>Medical Physician and Surgeon</b>	<b>48,673</b>
<b>Medical Physician Assistant</b>	<b>6,404</b>
<b>Osteopathic Medicine</b>	
<b>Osteopathic Physician and Surgeon</b>	<b>7,678</b>
<b>Osteopathic Physician Assistant</b>	<b>1,143</b>

**Nursing Care Facilities:** As stated above, there are 703 nursing care facilities in Pennsylvania at present.

Small businesses are defined in Section 3 of the Regulatory Review Act, Act 76 of 2012, which provides that a small business is defined by the U.S. Small Business Administration's Small Business Size Regulations under 13 CFR Ch. 1 Part 121. These size standards have been established by the types of businesses under the North American Industry Classification System (NAICS). In applying the NAICS standards to the businesses identified above, a nursing care facility is a small business if it has \$25.5 million or less in total income annually. As the PA Department of Labor and Industry (L&I) defines "small business" by number of employees, rather than total annual income, it is not possible to make absolute determinations as to how many of Pennsylvania's nursing care facilities fall into the category of a "small business." The latest Small Business Profile issued by L&I indicates that small firms make up 98.3% of all Pennsylvania employers. The Department has no reason to dispute that this same percentage would apply to nursing care facilities.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

**The regulation as revised does not impose a requirement; rather, the regulation permits physician assistants to work in nursing care facilities in accordance with rules governing their scope of practice.**

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

**Residents of nursing facilities whose care is provided by a physician assistant will benefit from the revision to Section 211.7. Physician assistants who provide care to residents of nursing facilities**

will benefit from the revision to Section 211.7. There are no financial, economic or social impacts as a result of the revision to the regulation.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

**No adverse effects or costs have been identified in connection with this revision to Section 211.7.**

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

**Section 211.7 governs nursing facilities operating in Pennsylvania. The revision to the regulation does not significantly affect costs or savings by nursing facilities operating in Pennsylvania. To the extent the facility incurs costs associated with more frequent physician visits in order to countersign physician assistant documentation in residents' medical records, however, facilities will experience a cost savings as a result of the revision to Section 211.7. The revision to the regulation does not require any new legal, accounting, or consulting procedures.**

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

**The revision to the regulation has no measurable fiscal impact on local government**

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

**The revision to the regulation has no measurable fiscal impact on state government.**

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

**The revision to the regulation does not require any additional recordkeeping or other paperwork requirements. Physician oversight of physician assistants working in nursing care facilities or in any other practice setting is currently required. The revision to the regulation will eliminate an unnecessarily burdensome oversight requirement for physician assistants working in nursing care facilities in Pennsylvania.**

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$

<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Savings</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>COSTS:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Costs</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Revenue Losses</b>	\$0	\$0	\$0	\$0	\$0	\$0

(23a) Provide the past three year expenditure history for programs affected by the regulation.

<b>Program</b>	<b>FY -3</b>	<b>FY -2</b>	<b>FY -1</b>	<b>Current FY</b>
<b>Quality Assurance</b>	\$18, 878, 000	\$18, 392, 000	\$18, 891,000	Not available

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance

with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.

- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

**As noted in the answers to question 10, 15, and 17, this regulation does not have an adverse impact on small businesses.**

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

**There are no special needs of any person or entity identified in response to question 10.**

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

**There are no alternative regulatory approaches.**

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

**As noted in the answers to question 10, 15, 17 and 24, this regulation will have no adverse impact on small businesses.**

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

**This rulemaking is not based upon any scientific data, studies, or references. The rulemaking**

**aligns nursing care facility licensure requirements in regulation with recent statutory changes to scope of practice for physician assistants.**

(29) Include a schedule for review of the regulation including:

- A. The date by which the agency must receive public comments: N/A
- B. The date or dates on which public meetings or hearings will be held: N/A
- C. The expected date of promulgation of the proposed regulation as a final-form regulation: N/A
- D. The expected effective date of the final-form regulation: Upon publication
- E. The date by which compliance with the final-form regulation will be required: Upon publication
- F. The date by which required permits, licenses or other approvals must be obtained: N/A

**The Department has dispensed with notice of proposed rulemaking and procedures for adopting final form regulations pursuant to Section 204(3) of the Commonwealth Documents Law, 45 P.S. § 1204(3), because the procedures relating to proposed rulemaking as specified in Section 201 and 202 of the Commonwealth Documents Law, 45 P.S. §§ 1201 and 1202, are unnecessary and contrary to the public interest in this circumstance. This revision ensures that the regulation conforms to the statutory scope of practice applicable to physician assistants.**

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

**The Department continually monitors and updates nursing facility licensure regulations as needed.**



FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

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<p>Copy below is hereby approved as to form and legality. Attorney General.</p> <p>BY _____ DEPUTY ATTORNEY GENERAL</p> <p>_____ DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable. Copy not approved. Objections attached.</p>	<p>Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p>DEPARTMENT OF HEALTH (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>10-155</u></p> <p>DATE OF ADOPTION: _____</p> <p>BY: <u>Karen M. Murphy, PhD, RN</u> <i>Karen M. Murphy PhD RN</i></p> <p>TITLE: <u>Secretary of Health</u></p>	<p>Copy below is hereby approved as to form and legality. Executive or independent Agencies.</p> <p><i>[Signature]</i> BY _____</p> <p>SEP 23 2015</p> <p>_____ DATE OF APPROVAL</p> <p>(Deputy General Counsel) <del>(Chief Counsel, Independent Agency)</del> (Strike inapplicable title)</p> <p><input type="checkbox"/> Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
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DEPARTMENT OF HEALTH

FINAL RULEMAKING

TITLE 28. HEALTH AND SAFETY

PART IV. HEALTH FACILITIES

[28 Pa. Code Chapter 211]

The Department of Health (Department) hereby amends 28 Pa. Code § 211.7 (relating to physician assistants and certified registered nurse practitioners) to replace the requirement for physician countersignature of all physician assistants' documentation on nursing facility resident medical records within 7 days with a requirement for countersignature by the supervising physician in accordance with requirements in statutes and regulations governing physician assistants' scope of practice, as set forth in Annex A hereto.

**A. PURPOSE OF THE AMENDMENTS**

The regulation amends 28 Pa. Code § 211.7 (§ 211.7) to eliminate the 7-day physician countersignature requirement for all physician assistants' documentation on medical records of residents of long-term care nursing facilities (nursing facilities) and requires physician countersignature of physician assistants' documentation on resident medical records in accordance with requirements in statutes and regulations governing physician assistants' scope of practice.

Under both the Medical Practice Act of 1985, 63 P.S. §§ 422.1 – 422.51, and the Osteopathic Medical Practice Act, 63 P.S. §§ 271.1 – 271.18, physician assistants may be licensed to assist up to 4 physicians and provide medical services (as outlined in the acts) under the supervision and direction of a supervising physician. Both acts require a written agreement describing the manner in which the physician assistant will be assisting each named physician and describing

the nature and degree of supervision to be provided. *See* 63 P.S. § 422.13, 63 P.S. § 271.10(f) – (p). Until recently, neither act addressed countersignatures by the supervising physician.

Hence, § 211.7 of the Department’s nursing facility regulations, permitting physician assistants to be utilized in nursing facilities, required a facility that utilizes the services of physician assistants (1) to have written policies indicating the manner in which the physician assistants shall be used and the responsibilities of the supervising physician, (2) to post a list at each nursing station of the names of the supervising physician and the persons they supervise, (3) to make available 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 certificate, and (4) to post a notice in prominent places in the facility explaining the meaning of the term “physician assistant.” The regulation also required nursing facilities to have “physician assistants’ documentation on the resident’s record . . . countersigned by the supervising physician within 7 days with an original signature and date by the licensed physician.” The regulation defined documentation to include “progress notes, physical examination reports, treatments, medications and any other notation made by the physician assistant.”

Acts 100 and 101 of 2013 amended the Medical Practice Act and the Osteopathic Medical Practice Act, respectively, to add provisions addressing patient record reviews for patient records completed by a physician assistant. Both acts require countersignatures by a physician only in limited circumstances. Under both statutes as amended, the supervising physician is to countersign 100% of the patient records completed by the physician assistant within a reasonable

time, not to exceed 10 days, during (1) the first 12 months of the physician assistant's practice post-graduation and after the physician assistant has fulfilled the criteria for licensure; (2) the first 12 months of the physician assistant's practice in a new specialty; and (3) the first 6 months of the physician assistant's practice in the same specialty under the supervision of the supervising physician, unless the physician assistant has multiple supervising physicians and practiced under the supervision of at least one of those physicians for six months. Otherwise, the supervising physician is to personally review a selected number of patient records completed by the physician assistant. The supervising physician is to select patient records for review on the basis of written criteria established by the physician and the physician assistant. Finally, the number of patient records reviewed is to be sufficient to assure adequate review of the physician assistant's scope of practice. *See* 63 P.S. § 422.13(d.1), (e), and 63 P.S. § 271.10(g), (j.1).

Department of Health nursing facility regulations, at § 211.7 (relating to physician assistants and certified registered nurse practitioners) require all physician assistants' documentation on the resident's record to be countersigned by the supervising physician within 7 days with an original signature and date. The regulation has been revised to delete this overly prescriptive requirement for countersignature by the supervising physician within 7 days for physician assistants' documentation and to require countersignature by the supervising physician in accordance with requirements in statutes and regulations governing their practice. Existing language stating that physician assistants may be utilized in facilities in accordance with their training and experience and the requirements in statutes and regulations governing their practice has been maintained.

Pursuant to § 204 of the Commonwealth Documents Law, 45 P.S. § 1204, notice of proposed rulemaking may be omitted if the agency for good cause finds that the procedures specified in §§ 201 and 202, 45 P.S. §§ 1201-1202, are, under the circumstances, impracticable, unnecessary, or contrary to the public interest. Based on the above, the Department finds justification for omitting notice of proposed rulemaking to amend § 211.7 to delete the 7-day physician countersignature requirements for physician assistants' documentation on nursing facility residents' records, because, under the circumstances, it is unnecessary and contrary to the public interest. *See* 45 P.S. § 1204(3).

#### **B. AFFECTED PERSONS**

Physician Assistants working in nursing facilities, physicians who supervise physician assistants working in nursing facilities and residents of nursing facilities will be affected by the regulation.

#### **C. FISCAL IMPACT**

This amendment to § 211.7 has no measurable fiscal impact on the Commonwealth, local government, the private sector or the general public. This amendment does not significantly affect costs or savings by the regulated community. This amendment revises only slightly record-keeping practices of nursing facilities. There is no measurable fiscal impact on local governments or State government or to the existing system for the regulatory oversight of nursing facilities.

#### **D. PAPERWORK REQUIREMENTS**

A system already exists for the oversight of nursing facilities and this final rule-making, with proposed rule-making omitted, does not increase paperwork.

#### **E. STATUTORY AUTHORITY**

The Health Care Facilities Act (HCFA), 35 P.S. §§ 448.101 – 448.904b, authorizes the Department, after consultation with the Health Policy Board, to promulgate regulations necessary to carry out the purposes and provisions of the HCFA. 35 P.S. §§ 448.601 and 448.803(2). The HCFA seeks to promote the public health and welfare through the establishment of regulations setting minimum standards for the operation of health care facilities. The minimum standards are to assure safe, adequate, and efficient facilities and services, and promote the health, safety, and adequate care of patients or residents of such facilities. 35 P.S. § 448.801a. The General Assembly has also stated that a purpose of the HCFA is to assure that all citizens receive humane, courteous and dignified treatment. 35 P.S. § 102. Finally, the HCFA provides the Department with explicit authority to enforce its rules and regulations promulgated under the HCFA. 35 P.S. § 448.201(2).

The Department also has the duty to protect the health of the people of the Commonwealth of Pennsylvania under section 2102(a) of the Administrative Code of 1929. 71 P.S. §532(g).

The Department consulted with the Health Policy Board on July 23, 2014, regarding this regulation, in accordance with its statutory obligation. The Board expressed no objection to the Department's promulgation of the amended regulation.

Pursuant to § 204 of the Commonwealth Documents Law, 35 P.S. § 1204, notice of proposed rulemaking may be omitted if the agency for good cause finds that the procedures specified in §§ 201 and 202 of the Commonwealth Documents Law, 45 P.S. §§ 1201-1202, are in the circumstances impracticable, unnecessary, or contrary to the public interest. Based on the above, the Department finds justification for omitting notice of proposed rulemaking to amend § 211.7 to require countersignature of physician assistants' documentation on nursing facility resident records by the supervising physician in accordance with requirements in statutes and regulations governing the practice of physician assistants.

**F. EFFECTIVE DATE/SUNSET DATE**

The amendments will become effective upon publication as final rulemaking. There is no sunset date; the regulations will be continually monitored and updated as needed.

**G. REGULATORY REVIEW**

Under section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5), on October 13, 2015, the Department submitted a copy of the regulation with proposed rulemaking omitted to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Health

and Human Services Committee and the Senate Public Health and Welfare Committee. On the same date, the regulation was submitted to the Office of Attorney General for review and approval pursuant to the Commonwealth Attorneys Act. In addition to submitting the regulation, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

In accordance with Section 5.1(d) of the Act, 71 P.S. § 745.5.1(d), the regulation was (deemed) approved by the House Health and Human Services Committee on \_\_\_\_\_ and (deemed) approved by the Senate Public Health and Welfare Committee on \_\_\_\_\_. IRRC met on \_\_\_\_\_ and approved the regulation.

#### H. CONTACT PERSON

Questions or comments regarding the final-form rulemaking may be submitted to Ann Chronister, Director, Bureau of Facility Licensure and Certification.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotape, Braille) should contact the Department of Health, Division of Nursing Care Facilities, Department of Health, Room 528 Health and Welfare Building, Harrisburg, PA 17120, (717) 787-8015, or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

The Department will accept comments in response to these amendments at any time following the effective date of the amendments.



## I. FINDINGS

The Department finds that:

- (1) These regulatory revisions satisfy the requirements of 45 P.S. § 1204 for submission of regulations in final rulemaking with proposed rulemaking omitted format. Under the circumstances, notice is impractical, unnecessary or contrary to the public interest.
- (2) The adoption of the final-form rulemaking in the manner provided by this order is necessary and appropriate for the administration of the authorizing statutes and is in the public interest.

## J. ORDER

The Department, acting under the authorizing statutes, orders that:

- (a) The regulation of the Department, 28 Pa. Code § 211.7, be amended to read as set forth in Annex A.
- (b) The Secretary shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as to form and legality as required by law.
- (c) The Secretary shall submit this order, Annex A and a Regulatory Analysis Form to IRRC, the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare for review and action as required by law.

(d) The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(e) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

Karen M. Murphy,

Secretary

**Annex A**

**Title 28: HEALTH AND SAFETY**

**\* \*\***

**PART IV. HEALTH FACILITIES**

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**SUBPART C. LONG-TERM CARE FACILITIES**

**\*\*\***

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

**\*\*\***

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

**\*\*\***

(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] in accordance with requirements in statutes and regulations governing their practice.



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF HEALTH

October 13, 2015

David Sumner  
Executive Director  
Independent Regulatory Review Commission  
14<sup>th</sup> Floor, 333 Market Street  
Harrisburg, Pennsylvania 17101

Re: Department of Health – Final Rulemaking, Proposed Rulemaking Omitted (No. 10-195)  
28 Pa. Code § 211.7 (physician assistants and certified registered nurse practitioners)

Dear Mr. Sumner:

Enclosed is a final-form regulation with proposed rulemaking omitted for review by your Committee in accordance with the Regulatory Review Act (71 P.S. §§ 745.1 – 745.15). This regulation amends 28 Pa. Code § 211.7 to replace the requirement for physician countersignature of all physician assistants' documentation on nursing facility resident medical records within 7 days with a requirement for countersignature by the supervising physician in accordance with requirements in statutes and regulations governing physician assistants' scope of practice.

Under both the Medical Practice Act of 1985, 63 P.S. §§ 422.1 – 422.51, and the Osteopathic Medical Practice Act, 63 P.S. §§ 271.1 – 271.18, physician assistants may be licensed to assist up to 4 physicians and provide medical services (as outlined in the acts) under the supervision and direction of a supervising physician. *See* 63 P.S. § 422.13, 63 P.S. § 271.10(f) – (p). Until recently, neither act addressed countersignatures by the supervising physician. Acts 100 and 101 of 2013 amended the Medical Practice Act and the Osteopathic Medical Practice Act, respectively, to add provisions addressing patient record reviews for patient records completed by a physician assistant. Both acts require countersignatures by a physician only in limited circumstances. Under both statutes as amended, the supervising physician is to countersign 100% of the patient records completed by the physician assistant within a reasonable time, not to exceed 10 days, during (1) the first 12 months of the physician assistant's practice post-graduation and after the physician assistant has fulfilled the criteria for licensure; (2) the first 12 months of the physician assistant's practice in a new specialty; and (3) the first 6 months of the physician assistant's practice in the same specialty under the supervision of the supervising physician. Otherwise, the supervising physician is to personally review a selected number of patient records completed by the physician assistant sufficient to assure adequate review of the physician assistant's scope of practice. *See* 63 P.S. § 422.13(d.1), (e), and 63 P.S. § 271.10(g), (j.1).

KAREN M MURPHY PHD, RN / SECRETARY

Publication of this amendment to § 211.7, to replace the 7-day physician countersignature requirement for nursing home resident records completed by a physician assistant with a requirement for physician countersignature in accordance with requirements in statutes and regulations governing physician assistants' scope of practice, will ensure that the Department's regulations allow physician assistants working in nursing facilities their full scope of practice as permitted by law.

Pursuant to section 204 of the Commonwealth Document Law, 45 P.S. § 1204, the Department is omitting proposed rulemaking, having for good cause found that the procedures specified in section 201 and 202 of the Commonwealth Documents Law, 45 P.S. §§ 1201 – 1202, are in these circumstances unnecessary and contrary to the public interest.

Section 5.1(e) of the Act provides that within 10 days following the expiration of the Standing Committee review period, or at its next regularly scheduled meeting, the Commission shall approve or disapprove the final-form regulation with proposed rulemaking omitted.

If you have any questions, please contact Neil Malady, Director of the Office of Legislative Affairs, at (717) 787-6436.

Sincerely,



Karen Murphy, PhD, RN  
Secretary of Health

Enclosure

LORC

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE REGULATORY REVIEW ACT

I.D. NUMBER: 10-195
SUBJECT: Physician Assistants and Certified Registered Nurse Practitioners
AGENCY: Department of Health

TYPE OF REGULATION

- Proposed Regulation
Final Regulation
X Final Regulation with Notice of Proposed Rulemaking Omitted
120-day Emergency Certification of the Attorney General
120-day Emergency Certification of the Governor
Delivery of Tolled Regulation
a. With Revisions b. Without Revisions

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FILING OF REGULATION

Table with columns: DATE, SIGNATURE, DESIGNATION. Rows include House Committee on Health (Majority/Minority Chair), Senate Committee on Public Health & Welfare (Majority/Minority Chair), Independent Regulatory Review Commission, Attorney General, and Legislative Reference Bureau.