

## Exception Requests

Title 28 PA Code, Chapters 51.31 and 601.5 provides for agencies/facilities to request “Exceptions” to regulatory requirements/standards. The Department may grant exceptions to this part when the policy and objectives contained therein are otherwise met, or when compliance would create an unreasonable hardship and an exception would not impair or endanger the health, safety or welfare of a patient or resident. No exceptions or departures from this part will be granted if compliance with the requirement is provided for by statute.

The Department has received inquiries into the process for requesting and granting of exceptions. The process is as follows:

- The Agency/Facility makes a formal request to the Division Chief for an exception to a specific state regulation as per Title 28 PA Code, Chapters 51.33(a) and 601.5. All requests must be submitted on the attached form with the signature of the agency’s/facility’s administrator.
- The request is published in the Pennsylvania Bulletin. Following publication, there is a 14-day comment period as per Title 28 PA Code 51.33(c).
- The Division Chief reviews all comments received, information supplied by the agency/facility and comments/recommendations of the Health Facility Quality Examiner and Health Quality Administrator for the region.
- - If the 14-day comment period is completed and sufficient information has been provided, the Division Chief renders a decision. A letter is generated to the agency/facility with the decision. Exceptions are approved for either a permanent or temporary period of time subject to annual review. The Agency/Facility is expected to maintain the State response on file.
  - If further information is required, a request is made to the provider for the additional information.
  - When the required information is received, the request is again reviewed.

The Department of Health reserves the right to revoke the exception for justifiable reasons. If you wish to request a reconsideration of a denial or revocation, you must write to the Division Chief within 30 days after service of the adverse notification (Title 28 PA Code, Chapter 51.34). In addition, exceptions are terminated in the event of a change of ownership.

If you have any questions about the program, please contact the Division of Home Health at (717) 783-1379.

Exception Requests

**Exceptions Request**

**Division of Home Health**

Name of Agency/Facility \_\_\_\_\_ License \_\_\_\_\_

Name of Agency/Facility Administrator \_\_\_\_\_

Agency/Facility Address \_\_\_\_\_

\_\_\_\_\_

Agency/Facility Phone# \_\_\_\_\_ Fax# \_\_\_\_\_

Exception being requested:

Examples as follows:

**Exception to 601.6 Definitions: home health aides.**

A home health agency may request an exception from 601.6 under the following circumstances:

1. The agency is requesting an exception from the state licensure requirement 601.6 Home Health Aide training since the agency's aides are meeting the Medicare requirements of the Condition of Participation: Home Health Aide Services 42 CFR 484.36(a) and (b).
2. The agency is requesting an exception from the state licensure requirement 601.6 Home Health Aide training since the agency's aides are meeting the Commonwealth of Pa, Department of Health, Nurse Aide Registry Program.

**Exception to 28 Pa Code 601.35(c) Supervision**

**601.35 (c) Supervision.** The registered nurse, or appropriate professional staff member, if other services are provided, shall make a supervisory visit to the patient's residence at least every 2 weeks, either when the aide is present to observe and assist, or when the aide is absent, to assess relationships and determine whether goals are being met.

**An agency may request an exception to 601.35(c) for supervision of home health aides providing services to patients not receiving skilled services if they request to follow the Medicare regulation at 42 CFR 484.36(d)(3).**

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### **Medicare regulation at 42 CFR 484.36(d)(3) states:**

If home health aide services are provided to a patient who is not receiving skilled nursing care, physical or occupational therapy or speech-language pathology services, the registered nurse must make a supervisory visit to the patient's home no less frequently than every 60 days. In these cases, to ensure that the aide is properly caring for the patient, each supervisory visit must occur while the home health aide is providing patient care.

Description of how the agency will assure that such exception(s) will not adversely affect patient care:

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Signature of Administrator/Individual appointed by the Governing Body

- The Exceptions Request form can be saved as a word document and text inserted.
- In addition to completing the Exceptions Request form, a letter may be submitted for Exception Committee review and consideration.
- The Administrator/Individual appointed by the Governing Body of the facility who is responsible for the management and operations of the facility must sign the Exceptions Request form and letter, if one is submitted.

Mail Request to: Linda Chamberlain, MS, BSN, RN  
Chief, Division of Home Health  
132 Kline Plaza, Suite A  
Harrisburg, PA 17104

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