

Texas

Agency Health and Human Services Commission

Contact Ben Smith

E-mail ben.snith10@hhs.texas.gov

Web Site <https://www.hhs.texas.gov/providers/long-term-care-providers/assisted-living-facilities-alf>

Opening Statement

The Texas Health and Human Services Commission (HHSC) licenses two facility licensure types for assisted living: Type A and Type B, which are based on residents' capability to evacuate the facility. Facilities are classified as either being licensed as a small (fewer than 16 residents, but four or more) or large (17 or more residents) facility. Any facility that advertises, markets, or otherwise promotes itself as providing specialized care for persons with Alzheimer's disease or other disorders must be certified as such and have a Type B license. A person establishing or operating a facility that is not required to be licensed may not use the term "assisted living" in referring to the facility or the services provided. The ALF statute requires careful monitoring to detect and report unlicensed facilities.

Licensure Term

Assisted Living Facilities – Type A and Type B Assisted Living Facilities

Definition

An ALF is an establishment that furnishes, in one or more facilities, food and shelter to four or more persons who are unrelated to the proprietor and provides personal care services or medication administration, or both and may provide assistance with or supervision of medication administration.

In a Type A ALF, a resident: must be mentally and physically capable of evacuating the facility unassisted in the event of an emergency; must not require routine attendance during sleeping hours; must be capable of following direction under emergency conditions; and must be able to demonstrate that they can meet evacuation requirements.

In a Type B ALF, a resident: may require staff assistance to evacuate; may be incapable of following directions under emergency conditions; may require attendance during sleeping hours; and must not be permanently bedfast but may require assistance in transferring to and from bed.

**Regulatory and
Legislative Update**

There have been some recent regulatory or legislative updates this last legislative session.

**Move-in Requirements
Including Required
Disclosures/Notifications**

There is a state-approved disclosure form that is required of all facilities, including a separate disclosure form for Alzheimer’s certified facilities or units.

Each assisted living facility to include in the facility's consumer disclosure statement whether the facility holds a license classified under Section 247.029 for the provision of personal care services to residents with Alzheimer's disease or related disorders. Additional it must include information regarding the policies and procedures for aging in place.

Health and Safety Code Chapter 325 requires an ALF manager to perform a search of the Sex Offender Registry (found in the Texas Code of Criminal Procedure, Chapter 62) to determine if a prospective or new resident is listed on the registry. The manager must search the registry, as soon as practicable, after a person requests to live at the ALF or is assigned to live at the ALF as a condition of community supervision or as a condition of release on parole or mandatory supervision.

Facility Scope of Care

Facilities provide personal care services or medication administration, or both and may provide assistance with or supervision of medication administration. An ALF may provide skilled nursing services for the following limited purposes: (1) coordinate resident care; (2) provide or delegate personal care services and medication administration; (3) assess residents to determine the care required; and (4) deliver temporary skilled nursing services for a minor illness, injury, or emergency for less than 30 days.

An ALF is required to provide an HHSC-prescribed memory care disclosure statement if the facility advertises, markets, or otherwise promotes that it provides memory care services to residents. The disclosure statement must indicate if the facility is certified or not certified to provide services to residents with Alzheimer’s disease or related disorders.

An ALF may also provide health maintenance activities as defined by rule by the Texas Board of Nursing.

Limitations of Services

Facilities must not admit or retain persons whose needs cannot be met by the facility or by the resident contracting with a home health

agency.

Resident Assessment Requirements and Frequency

Within 14 days of admission, a resident comprehensive assessment and an individual service plan for providing care based on that comprehensive assessment must be completed. There is no state-mandated form. Facilities must include specific criteria from the licensing regulations on their assessment form, such as behavioral symptoms, psychosocial issues, and activities of daily living patterns.

Medication Management

Residents who choose not to or cannot self-administer medication must have medication administered by a person who: holds a current license to administer medication; holds a current medication aide permit (this person must function under the direct supervision of a licensed nurse on duty or on call); or is an employee of the facility to whom the administration of medication has been delegated by a registered nurse. Staff who are not licensed or certified may assist with self-administration of medication as allowed under the regulations.

Staff Scheduling Requirements

Any facility that advertises, markets, or promotes itself as providing specialized care for persons with Alzheimer's disease or related disorders must be certified. Alzheimer's certified facilities are required to have a Type B license. The facility must provide a disclosure statement that describes the nature of its care or treatment of residents with Alzheimer's disease and related disorders.

Each facility must designate a manager to have authority over its operation. A facility must have sufficient staff to maintain order, safety, and cleanliness; assist with medication regimens; prepare and service meals; assist with laundry; provide supervision and care to meet basic needs; and ensure evacuation in case of an emergency. There is no specified staffing ratio. Facilities must disclose their staffing patterns and post them monthly.

Administrator/Director Education and Training Requirements

In small facilities, managers must have a high school diploma or certification of equivalency of graduation. In large facilities, a manager must have: an Associate's degree in nursing, health care management, or a related field; a Bachelor's degree; or proof of graduation from an accredited high school or certification of equivalency and at least one year of experience working in management or in health care management. Managers hired after August 2000 must complete a 24-hour course in assisted living management within their first year of employment.

Managers must complete 12 hours of continuing education per year

in courses related to at least two of the following areas:

- (1) Resident and provider rights and responsibilities, abuse/neglect and confidentiality;
- (2) Basic principles of management;
- (3) Skills for working with residents, families, and other professional service providers;
- (4) Resident characteristics and needs;
- (5) Community resources;
- (6) Accounting and budgeting;
- (7) Basic emergency first aid; and
- (8) Federal laws, such as the Americans with Disabilities Act (1990) and Fair Housing Act (1968).

**Direct Care Staff
Education and Training**

Full-time facility attendants must be at least 18 years of age or hold a high school diploma. The regulations list specific training requirements for licensed nurses, nurse aides, and medication aides. All staff must receive four hours of orientation on specific topics before assuming any job responsibilities. Attendants must complete 16 hours of on-the-job supervision and training within their first 16 hours of employment following orientation.

Direct care staff in ALFs must annually complete six hours of in-service education. Specific topics must be covered annually. Two hours of training must be competency-based. Facilities must adopt, implement, and enforce a written policy that requires direct care staff to successfully complete training in the provision of care to residents with Alzheimer's disease and related disorders and ensure the care and services provided by an employee to a resident with Alzheimer's disease or a related disorder meet the specific identified needs of the resident relating to the diagnosis of Alzheimer's disease or a related disorder. The training required for facility employees must include information about symptoms of dementia; stages of Alzheimer's disease; person-centered behavioral interventions; and communication with a resident with Alzheimer's disease or a related disorder.

All staff must receive dementia-specific orientation prior to assuming job responsibilities. Direct care staff in an Alzheimer's-certified ALF must annually complete 12 hours of in-service education regarding Alzheimer's disease.

Quality Requirements

No specific quality requirements are listed.

Infection Control Requirements

Each facility must establish and maintain an infection control policy and procedure designated to provide a safe, sanitary, and comfortable environment and to help prevent the development and transmission of disease and infection.

An Infection Control option has been added in the Incident Category field in the incident reporting form. Providers can use this option when submitting online facility-reported incidents related to infection control, such as outbreaks.

The facility must have written policies for the control of communicable disease in employees and residents, which includes tuberculosis (TB) screening and provision of a safe and sanitary environment for residents and employees.

Emergency Preparedness

A facility must conduct and document a risk assessment that meets the definition in subsection (a)(8) of this section for potential internal and external emergencies or disasters relevant to the facility's operations and location, and that pose the highest risk to a facility, such as:

- (1) a fire or explosion;
- (2) a power, telecommunication, or water outage; contamination of a water source; or significant interruption in the normal supply of any essential, such as food or water;
- (3) a wildfire;
- (4) a hazardous materials accident;
- (5) an active or threatened terrorist or shooter, a detonated bomb or bomb threat, or a suspicious object or substance;
- (6) a flood or a mudslide;
- (7) a hurricane or other severe weather conditions;
- (8) an epidemic or pandemic;
- (9) a cyber attack; and
- (10) a loss of all or a portion of the facility.

A facility must develop and maintain a written emergency preparedness and response plan based on its risk assessment and that is adequate to protect facility residents and staff in a disaster or emergency.

Facilities with generators should perform any maintenance or needed testing while the weather is mild. This will ensure the equipment functions in case of extreme cold or power loss. It is important to review building integrity and identify any areas that may need repair, reinforcement, or weatherproofing. Multi-story buildings should review any other needed measures should evacuation be required and have a plan in place for how to move

Medicaid Policy and Reimbursement

residents around or out of the building if there is a loss of power

A Medicaid Section 1915(c) home and community-based services (HCBS) waiver covers services in ALFs that contract with the resident's managed care organization to provide HCBS waiver services.

Life Safety Requirements

The regulations list extensive fire safety requirements under Chapters 12 or 21 of the NFPA Life Safety Code. ALFs must meet the requirements of the 2012 edition of NFPA 101, the Life Safety Code. All new Type A facilities and small Type B facilities must comply with Chapter 32, New Residential Board and Care Occupancies. All existing Type A facilities and small Type B facilities must comply with Chapter 33, Existing Residential Board and Care Occupancies. All new Type B large facilities must comply with Chapter 18. The requirements of limited care, as defined by the NFPA 101, may be used. All existing Type B large facilities must comply with Chapter 19. The requirements of limited care, as defined by the NFPA 101, may be used. An existing facility is one that operated with a license as an assisted living facility before August 31, 2021 and has not subsequently become unlicensed. All new ALFs and all existing Type B facilities must be protected throughout by an approved, automatic sprinkler system. Fire alarm and smoke detection systems are established in the Life Safety Code with additional minimum coverage requirements established by state rules.

Licensing Standards for Assisted Living Facilities in Chapter 553 require ALFs to have an emergency preparedness plan that addresses the eight core functions of emergency preparedness. Proposed rules are being developed to provide clearer guidance and more detailed information relating to the eight core functions.

Citations

Texas Statutes. (2013) Health and Safety Code, Title 4, Subtitle B, Chapter 247: Assisted Living Facilities. The chapter is cited as the Assisted Living Facility Licensing Act.
<http://www.statutes.legis.state.tx.us/SOTWDOcs/HS/htm/HS.247.htm>

Texas Administrative Code. (n.d.) Title 26, Part 1, Chapter 553: Licensing Standards for Assisted Living Facilities.
http://txrules.elaws.us/rule/title26_chapter553

House Bill 3329. (2019) An Act relating to the services provided by assisted living facilities.
<https://capitol.texas.gov/tlodocs/86R/billtext/html/HB03329I.htm>

Texas Health and Human Services. (n.d.) Medicaid and CHIP: STAR +PLUS. <https://www.hhs.texas.gov/services/health/medicaid-chip/medicaid-chip-members/starplus>