

Texas

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Licensure Term Assisted Living Facilities

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 small (fewer than 16 residents) or large (16 or more residents). 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.

Legislative and Regulatory Update HHSC is currently amending requirements to implement legislation from the 85th Legislative Session. Per legislation, licensure timeframes were changed from two to three years. Proposed rules to the administrative penalties and "no right to correct" regulations are currently being promulgated with anticipated adopted dates prior to the end of 2018. Senate Bill 2025 required HHSC to develop a system to record and track the scope and severity of licensure violations by an ALF for the purpose of assessing an administrative penalty. The system must be similar to the system used by the Centers for Medicare and Medicaid Services to categorize the scope and severity of violations for nursing facilities. New rules required by SB 2025 require an ALF to train employees who provide direct care to residents with Alzheimer's disease or related disorders and to ensure the care and services provided to those residents meet their needs related to their diagnosis of Alzheimer's disease or a related disorder.

To implement SB 924 HHSC has proposed amendments to the informal dispute resolution (IDR) process for an assisted living facility. The proposed rule will also require the facility to pay the

reasonable costs associated with an HHSC employee to redact and prepare the documents, as required by Texas Health and Safety Code 247.051(a)(3)(A) and (B).

SB 1049 required HHSC, by rule, to specify an edition of the Life Safety Code (NFPA 101) that was issued after August 1, 2011 to be used for Assisted Living Facilities licensed in Texas. HHSC proposed the adoption of the 2012 edition with type A and small type B facilities remaining subject to compliance with Residential Board and Care chapters and large type B facilities remaining subject to compliance with the Health Care Occupancy chapter.

The Assisted Living Facility Licensing Act was first adopted in 1991.

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; 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.

Disclosure Items

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.

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.

Third Party Scope of Care	A resident may contract with a licensed home and community support services agency or with an independent health professional to have additional health care services delivered at the facility.
Admission and Retention Policy	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	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.
Square Feet Requirements	Bedroom usable floor space for Type A facilities must be at least 80 square feet for a single-bed room and not less than 60 square feet per bed for a multiple-bed room. Bedroom usable floor space for Type B facilities must be at least 100 square feet per bed for a single-bed room, and not less than 80 square feet per bed for a multiple-bed room.
Residents Allowed Per Room	A maximum of four residents is allowed per resident unit. No more than 50 percent of residents can be in units with more than two residents.
Bathroom Requirements	All bedrooms must be served by separate private, connecting, or general toilet rooms for each gender. A minimum of one water closet, lavatory, and bathing unit must be provided on each sleeping floor. One water closet and one lavatory for every six residents and one tub or shower for every 10 residents is required.
Life Safety	The regulations list extensive fire safety requirements under Chapters 12 or 21 of the NFPA Life Safety Code. Type A ALFs are classified as 'slow' evacuation and Type B facilities as 'impractical' evacuation. ALFs must meet the requirements of the 2000 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 January 6, 2014 and has not subsequently become unlicensed.

Sprinkler requirements are established in the Life Safety Code. 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.

Unit and Staffing Requirements for Serving Persons with Dementia

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.

Regulations include additional staffing and training requirements.

Staffing Requirements

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 Education/Training

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 and Fair Housing Act.

Staff Education/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.

**Entity Approving
CE Program**

None specified.

**Medicaid Policy and
Reimbursement**

A Medicaid 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.

Citations

Texas Health and Human Services Commission, Long-term Care Regulatory, Assisted Living Handbook – only forms from the handbook are currently available.
<https://hhs.texas.gov/laws-regulations/handbooks/assisted-living-handbook>

Texas Statutes, 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, Title 40, Part 1, Chapter 92: Licensing Standards for Assisted Living Facilities.

[http://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=92](http://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=92)

Texas Health and Human Services. Medicaid and CHIP: STAR+PLUS.

<https://hhs.texas.gov/services/health/medicaid-chip/programs/starplus>

Texas Health and Human Services Commission, Long-term Care

Regulatory, Policy, Rules and Training

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