



Long-Term Care Regulatory Provider Letter (PL)

Number: PL 18-04 (ALFs, ICFs/IID, NFs)
Title: Wheelchair Self-release Seatbelt Rules
Provider Types: Assisted Living Facilities (ALFs), Intermediate Care Facilities for Individuals with an Intellectual Disability or Related Conditions (ICFs/IID), and Nursing Facilities (NFs)
Date Issued: February 07, 2018

1.0 Subject and Purpose

On January 2, 2018, the Health and Human Services Commission (HHSC) adopted new rules that require a facility to allow a resident to use a wheelchair self-release seatbelt if the resident meets certain conditions. The rule also specifies when a facility is not required to allow a resident to use a wheelchair self-release seat belt. The new rules implement §322.0515, Texas Health and Safety Code, as added by House Bill (HB) 284 of the 85th Legislature, Regular Session, 2017.

2.0 Background/History

The new wheelchair self-release seat belt rules require a facility to allow a resident to use a self-release seat belt if:

- The resident or resident’s legal guardian requests the seat belt;
- The resident consistently demonstrates the ability to fasten and release the seat belt without assistance;
- The use of the seat belt is documented in and complies with the resident’s plan of care; and
- The facility receives written authorization, signed by the resident or the resident’s legal guardian for use of the seat belt.

3.0 Policy Details & Provider Responsibilities

The requirement that the resident “consistently” demonstrate the ability to release the seat belt without assistance is essential, because once a resident no longer has the ability to release the seat belt, then the seat belt becomes a restraint. Restraint use in facilities is subject to other limitations and requirements, as outlined by both state and federal requirements.

In order for a seat belt to not be considered a restraint, the resident must be able to demonstrate the ability to self-release routinely and over time, not just once or twice or only at specific times of the day, such as in the morning. If a resident or family member requests a seat belt, but the facility has documented that resident does not have the ability to consistently release the seat belt as described, a facility is not required to allow the resident to use the seat belt under these new requirements.

Note: A facility **must** allow use of a wheelchair self-release seat belt if all of the conditions outlined in HB 284 are met. The facility **may** allow use of a wheelchair self-

release seat belt even if some of the conditions are not met, as the seat belt is not a restraint if the resident is able to consistently self-release it. For example, the facility may allow a resident to use a seat belt even without written authorization from a legal guardian, provided the resident is able to consistently self-release.

Facility surveyors will continue to assess compliance with restraint requirements by reviewing documentation to ensure that a resident who uses a wheelchair self-release seat belt has demonstrated the ability to fasten and release the seat belt. This documentation should be included in the resident's comprehensive care plan (NFs), individual program plan (ICFs/IID), or individual service plan (ALFs). Additionally, during observation at a facility and through interviews, surveyors may confirm that a resident is able to release a seat belt without assistance.

Facilities are not required to continue to allow the resident to use a self-release seat belt if the resident becomes unable to consistently demonstrate the ability to release the seatbelt; if authorization is revoked in writing by the resident or legal guardian; or if the use of the seat belt does not comply with the resident's comprehensive care plan, individual program plan, or individual service plan.

In addition, facilities that advertise themselves as restraint free, and have provided a written statement to all residents indicating that the facility is restraint free, are not required to allow residents to use seat belts. However, these facilities must still make reasonable efforts to accommodate the concerns of a resident who requests a self-release seat belt in accordance with the rule. The facility's efforts to address the concerns of the resident must be documented in the resident's comprehensive care plan, individual program plan, or individual service plan.

The new rules can be found at:

- Texas Administrative Code, Title 40 (40 TAC) §[19.424 for a NF](#);
- 40 TAC §[90.45 for an ICF/IID](#); and
- 40 TAC §[92.128 for an ALF](#).

4.0 Forms/Appendices

None.

5.0 Contact Information

If you have any questions about this letter, please contact the Policy, Rules and Training Section at (512) 438-3161.

6.0 Key Words

H.B. 284; Wheelchair Self-release Seatbelts; Restraint Free.

[signature on file]

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