



Long-Term Care Regulatory Provider Letter (PL)

Number: PL 18-23
Title: Adopted Rules related to Licensing Enforcement and Staff Training
Provider Types: Assisted Living Facilities (ALFs), Day Activity and Health Services Facilities (DAHS), Intermediate Care Facilities for Individuals with an Intellectual Disability or Related Conditions (ICFs/IID), Nursing Facilities (NFs) and Prescribed Pediatric Extended Care Centers (PPECCs)
Date Issued: 10/29/2018

1.0 Subject and Purpose

The Executive Commissioner of the Health and Human Services Commission (HHSC) has adopted a new rule and amendments to rules in Texas Administrative Code, Title 40 Chapters 15,¹ 19,² 90,³ 92,⁴ and 98⁵. The rules implement legislation from House Bill (HB) 2025 that was passed during the 85th Texas Legislature, Regular Session, 2017. The bill addressed scope and severity of violations, instances where facilities do not have the opportunity to correct a violation in order to avoid being assessed an administrative penalty, and training for staff who care for individuals with Alzheimer's disease or related disorders. **The rules are effective on October 28, 2018. HHSC will give ALFs, DAHS facilities, and NFs until May 1, 2019 to develop and implement the required policies related to Alzheimer's training. HHSC will begin enforcing the other rule changes on their October 28, 2018 effective date.**

2.0 Policy Details & Provider Responsibilities

An ALF, DAHS facility, ICF/IID, NF, or PPECC must take any action necessary to implement the new and amended rules in a timely manner. HHSC will offer a joint training webinar related to scope and severity following the effective date of the rules. HHSC will post dates and times for the joint-training webinar on the [Joint Training registration website](#).

¹ 40 TAC §15.5 and §15.1408, for a prescribed pediatric extended care center (PPECC).

² 40 TAC §19.1920 and §19.2114, for a nursing facility (NF).

³ 40 TAC §§90.3, 90.236, and 90.240, for an intermediate care facility for individuals with an intellectual disability or related conditions (ICF/IID).

⁴ 40 TAC §92.2, 92.43, and §92.551, for an assisted living facility (ALF).

⁵ 40 TAC §§98.2, 98.62, and 98.105, for a day activity and health services (DAHS) facility.

3.0 Background/History

HB 2025 required HHSC to develop a system to record and track the scope and severity of licensure violations by an ALF, a DAHS facility, an ICF/IID, a NF and a PPECC for the purpose of assessing an administrative penalty or taking other enforcement action. The system must be similar to the system used by the Centers for Medicare & Medicaid Services to categorize the scope and severity of deficiencies for NFs.

HB 2025 required HHSC to adopt definitions for terms related to scope and severity for ALF, DAHS and ICF/IID. For consistency purposes HHSC adopted the same definitions for PPECC, although not required by the bill.

HB 2025 also required HHSC to develop rules for specific categories related to situations under which HHSC will not allow a facility license holder to correct a violation in order to avoid being assessed an administrative penalty. This applies to ALFs, DAHS facilities, ICFs/IID and NFs.

Lastly, HB 2025 required HHSC to develop rules requiring an ALF, NF and DAHS facility 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.

HHSC adopted rules for each facility type affected by HB 2025 based on the legislation. HHSC remained consistent across programs where possible, taking into consideration existing rule and statute for each program.

Contact Information

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

[signature on file]

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