



## Long-Term Care Regulatory Provider Letter

<b>Number:</b> PL 18-24 (ALF, DAHS, and ICF/IID)
<b>Title:</b> Rules related to License Terms and Survey Frequency
<b>Provider Types:</b> Assisted Living Facilities (ALFs), Day Activity and Health Services Facilities (DAHS) and Intermediate Care Facilities for Individuals with an Intellectual Disability or Related Conditions (ICFs/IID)
<b>Date Issued:</b> October 29, 2018

### 1.0 Subject and Purpose

The Executive Commissioner of the Health and Human Services Commission (HHSC) has adopted rules in Texas Administrative Code, Title 40 (40 TAC) Chapters 90<sup>1</sup>, 92<sup>2</sup>, and 98<sup>3</sup> related to license terms and survey frequency for the provider types referenced above. The rules are effective October 29, 2018.

### 2.0 Policy Details & Provider Responsibilities

#### 2.1 Transition to a Three-Year License Term

HHSC will begin to transition existing licenses to a three-year term. Any initial licenses issued between the effective date of October 29, 2018 and December 31, 2018 will be given a two-year license term. Starting January 1, 2019, all initial licenses will be given a three-year license term. If HHSC renews a license after December 31, 2018, and before January 1, 2021, HHSC issues a renewal license for a two-or three-year term, depending on the last digit of a facility's identification number.<sup>4</sup> Starting January 1, 2021, HHSC will renew all licenses for a three-year term. The table below shows the license term, based on the last digit of a facility's ID number and year of renewal.

<sup>1</sup> 40 TAC §§90.15, 90.19, and 90.191, for an intermediate care facility for individuals with an intellectual disability or related conditions (ICF/IID).

<sup>2</sup> 40 TAC §§92.4, 92.20, 92.51, and 92.81, for an assisted living facility (ALF).

<sup>3</sup> 40 TAC §§98.11, 98.15, 98.21, and 98.81, for a day activity and health services (DAHS) facility.

<sup>4</sup> 40 TAC §90.15(b)-(c) for ICFs/IID; 40 TAC §92.15(b)-(c) for ALFs; and 40 TAC §98.15(b)-(c) for DAHS facilities.

License Expiration Year	Last Digit of Facility ID Number	License Term
2019	0-3 or 7-9	2 Years
2019	4-6	3 Years
2020	0-3 or 7-9	3 Years
2020	4-6	2 Years

Licensure fees are stated in the licensure rules for each program and will be based on the licensure term.<sup>5</sup>

### 3.0 Survey Frequency

HHSC may conduct inspections of ALFs, DAHS facilities, and ICFs/IID as appropriate. However, it is required to conduct inspections at a minimum frequency to carry out its licensing and certification responsibilities. In addition to initial inspections, HHSC inspects a facility as described below:

- **Assisted Living Facility-** HHSC inspects an ALF at least once every two years after the initial inspection.<sup>6</sup>
- **Day Activity Health Service Facility -** HHSC inspects a DAHS facility at least once every two years after the initial inspection.<sup>7</sup>
- **Intermediate Care Facility for Individuals with an Intellectual Disability or Related Conditions -** HHSC conducts at least two unannounced inspections of an ICF/IID during a two-year licensing period, and at least three unannounced inspections of an ICF/IID during a three-year licensing period.<sup>8</sup>

### 4.0 Background/History

House Bill 2025, 85th Legislature, Regular Session, 2017 (HB 2025) made statutory amendments that increased the term of a license for an ALF, a DAHS facility, or an ICF/IID from two years to three years. The amendments also require the executive commissioner to adopt a system by rule under

<sup>5</sup> 40 TAC §90.19(a)(1) for ICFs/IID; 40 TAC §92.4(a)(1) for ALFs; and 40 TAC §98.21(a) for DAHS facilities. The ICF/IID and ALF fee components for each unit of capacity and each bed, respectively, for which a renewal license is sought, are also annualized at an unchanged rate.

<sup>6</sup> 40 TAC §92.81(b)

<sup>7</sup> 40 TAC §98.81(i).

<sup>8</sup> 40 TAC §90.191(g).

which licenses transition to a three-year license term on a staggered basis. In addition, the statutes require HHSC to prorate the license fees.<sup>9</sup>

The changes in minimum inspection frequency also implement statutory amendments made by HB 2025.<sup>10</sup>

## 5.0 Forms/Appendices

None.

## 6.0 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]*

Mary T. Henderson  
Associate Commissioner  
Long-term Care Regulatory

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<sup>9</sup> Health and Safety Code (H&SC) §252.033 (h)(2)§252.034 for ICFs/IID; H&SC, §247.023(a) for ALFs; HRC §103.006(b) DAHS.

<sup>10</sup> H&SC §252.041(a) for ICFs/IID; H&SC §247.027(a)(1) for ALFs; HRC §103.008(a)(1) for DAHS.