Ombudsmen in Assisted Living Facilities: Protecting Residents’ Rights

2017 REPORT

Office of the State Long-term Care Ombudsman
Overview

The Office of the State Long-term Care Ombudsman (Office) is independent within HHSC. Long-term care ombudsmen regularly visit assisted living facilities (ALFs) and advocate for residents. This report describes ombudsman services in ALFs in state fiscal year 2017, including recommendations to ensure the highest quality of life and care for residents.

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Assisted Living Facilities in Texas

- ALFs regulated and licensed by the state have a total capacity of 70,570\(^1\).
- The largest facility in Texas is licensed for 270 residents.\(^2\)
- Rates vary from $700 to more than $9,000 a month. Some ALF costs may be covered by an insurance plan, such as a long-term care insurance plan or STAR+PLUS (Medicaid).
- 4,033 residents living in ALFs are on STAR+PLUS (Medicaid).\(^3\)

Based on the number of beds and residents’ abilities, the state licenses facilities as Type A, B or C, classified as small or large, and Alzheimer’s certified, if applicable. Small facilities are typically single-story homes in residential neighborhoods. Large facilities may be multi-story, apartment complexes or resemble a hotel structure. People living in an ALF may need assistance with movement, bathing, dressing or medications; have hearing or speech impairments or incontinence; use self-help devices; or exhibit symptoms of mental or emotional disturbances.

- **Type A**: Care for residents who can evacuate the facility unassisted, do not require routine attendance during sleeping hours and can follow directions during an emergency.
- **Type B**: Care for residents who may need assistance to evacuate, cannot follow directions during an emergency, require staff attendance during sleeping hours and need assistance transferring to and from a wheelchair.
- **Type C**: Four-bed facilities that provide adult foster care.
- **Small**: Licensed to care for 16 or fewer residents.
- **Large**: Licensed to care for 17 or more residents.
- **Alzheimer’s certified**: Type B facility certified to provide specialized services to residents with Alzheimer’s or a related condition.\(^4\)

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\(^1\) Source: HHS Regulatory Services, September 2017

\(^2\) Source: HHS Regulatory Services, September 2017

\(^3\) Source: HHS Medicaid/CHIP, October 2017 regarding FY 2016

\(^4\) Other facilities may serve a group of residents with similar conditions, such as intellectual and development disabilities, traumatic brain injuries, or people living with mental illness. However, a separate certification is not required.
The State Long-term Care Ombudsman Program

The mission of the State Long-term Care Ombudsman Program is to improve the quality of life and care for residents of nursing homes and ALFs by providing prompt, informal complaint resolution and promoting systemic change on behalf of residents’ interests.

The Work of an Ombudsman

Regular Facility Visits

Schedule of ALF Ombudsman Visits by Facility Type

<table>
<thead>
<tr>
<th>Facility Type</th>
<th>Licensed Capacity</th>
<th>Required Visits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type A</td>
<td>All sizes</td>
<td>4</td>
</tr>
<tr>
<td>Type B</td>
<td>1-49 beds</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>50-99 beds</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>100+ beds</td>
<td>10</td>
</tr>
<tr>
<td>Type C</td>
<td>All sizes</td>
<td>4</td>
</tr>
</tbody>
</table>

The State Long-term Care Ombudsman Program receives funding from the state legislature to ensure all ALF residents have consistent access to an ombudsman. Ombudsmen are expected to make frequent, unannounced visits to facilities. Based on the type and licensed capacity of the facility, ombudsmen are required to visit between four and ten times each year (see chart). Ombudsmen make additional visits to investigate, resolve and follow up on concerns.

Before entering a building, ombudsmen observe the outside and inside of the facility looking for any unsafe conditions. Once inside, they greet and notify staff of their presence. Ombudsmen wear a badge so residents and staff can easily recognize them. They spend the majority of their time talking with residents, asking about their experience at the ALF and investigating any complaints.

Ombudsmen made a total of 13,991 visits to ALFs in 2017 — 288 more than 2016. This number includes 617 visits to residents in day activity and health service settings.

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5 Due to reduced state funding for the 2018-2019 biennium, required visits to Type B facilities with 50-99 beds has been reduced to 5 each year and Type B facilities with 100+ beds reduced to 7 visits. Changes to visit requirements began in September 2017.
A Large Facility Closes:

An ombudsman was contacted by Regulatory Services because an ALF was closing. The facility operated as an ALF for nineteen years and with a licensed capacity of 300 was the largest in Texas. At the time of closing, it had 117 residents and almost all residents paid for their care with Medicaid. Availability of a Medicaid room is limited with only about seven percent of ALF beds accepting Medicaid payment.

The facility planned to notify residents 30 days before closing. The ombudsman notified the Office of the impending closure and requested help coordinating with the two managed care organizations (MCOs) that provided services in the area. With support from HHS Medical and Social Services, MCOs were onsite the day after residents were notified of the closure. Staff ombudsmen attended the MCO meeting with residents and followed up for the remaining weeks with residents about where they wanted to move.

With frequent onsite monitoring, staff ombudsmen coordinated with HHS Regulatory Services to help ensure residents’ services continued and their transition to a new facility went smoothly. Residents were in disbelief that their home would no longer operate. Many residents lived there for years and didn’t want to move. Ombudsmen provided emotional support and helped residents find a new home. Ombudsmen from neighboring programs helped with alternative facilities that might offer a similar setting or amenities in a new county.
Over the next several weeks, ombudsmen visited residents multiple times a week to help with their move. The facility owners announced they did not have any resources to help residents move, including packing residents’ belongings and arranging for transportation. Staff ombudsmen worked with United Way to find volunteers and donations to help. Many residents didn’t have the physical ability or the financial resources to move their belongings from one facility to another. With the help of donations, moving companies moved residents’ belongings at no cost to residents.

Eventually, all residents found a new facility before the facility closed. It was an emotional move for many residents with little time to adjust to losing their long-time home. Based on this and similar experiences, ombudsmen determined that residents would benefit from a requirement to give at least 60 days before closing. For more information, see recommendations on page 17.

For news stories related to the facility closing see:
Ombudsmen in Assisted Living Facilities

Advocating for Residents

An ombudsman empowers and supports residents and families to discuss concerns with facility staff. At a resident’s request, an ombudsman will talk directly with facility staff about a complaint and begin working toward a solution. Ombudsmen are required to respect the privacy and confidentiality of residents and complainants when working to resolve a complaint. They strive to resolve concerns and build relationships with residents and facility staff. When a complaint is made an ombudsman opens a case. Cases might include multiple complaints. Ombudsmen closed 2,375 cases in 2017.

### Cases and Complaints by Year

<table>
<thead>
<tr>
<th>Year</th>
<th>Cases</th>
<th>Complaints</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013</td>
<td>711</td>
<td>881</td>
</tr>
<tr>
<td>2014</td>
<td>1,238</td>
<td>1,450</td>
</tr>
<tr>
<td>2015</td>
<td>1,675</td>
<td>1,915</td>
</tr>
<tr>
<td>2016</td>
<td>2,714</td>
<td>3,598</td>
</tr>
<tr>
<td>2017</td>
<td>2,375</td>
<td>3,376</td>
</tr>
</tbody>
</table>

A Closer Look at Complaints

An ombudsman gathers complaints in person, by phone and email. Complaints can come from any source, such as residents, facility staff, resident’s family or friends, ombudsmen, medical staff, and legal representatives. In 2017, ombudsmen received 3,376 complaints. The Office analyzed possible factors that contributed to the decrease of cases and complaints in 2017 and determined that ombudsman turnover, which was 20 percent, contributed to the decrease in reported cases and complaints. A new ombudsman spends the first few visits to a facility building rapport with residents. Until that rapport is established, a resident is less likely to report a problem to an ombudsman.

![Chart showing complaint sources]

- Residents: 59%
- Ombudsmen: 27%
- Resident’s family or friends: 7%
- Anonymous: 3%
- Facility staff: 3%
- Other: 1%
Frequent Complaints

In order of frequency, the most common complaints in 2017 involved dietary issues, cleanliness, environmental and safety concerns, access to information and medication issues. When evaluated separately, however, the most frequent complaints in Type A and B differ. The twenty most frequent complaints account for 73 percent of all complaints received.

Of the twenty most common complaints in Type A, unique complaints include:
- Access to facility surveys, staffing reports and license
- Temperature of food or beverages
- Privacy with telephone calls, visitors and mail
- Confidentiality and privacy while receiving services

The most common unique complaints in Type B facilities include:
- Symptoms unattended or unnoticed
- Problems with assistive devices
- Resident conflict

Assisted Living Facilities in Texas*:
- 1,885 ALFs are regulated and licensed by the state.
- Of the 70,570 beds available, 63% are occupied.
- 28% of ALFs are Type A, most are small.
- 71% of ALFs are Type B, half of Type B facilities are small.
- One-third of ALFs are Alzheimer’s certified, which is a subset of Type B facilities.
- 1% of ALFs are Type C.

* Source: HHSC Regulatory Services, September 2017
### 20 Most Frequent Assisted Living Facility Complaints: 2017

**Total Complaints:** 3,376

<table>
<thead>
<tr>
<th>Complaint</th>
<th>Type A</th>
<th>Type B</th>
<th>Type C</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Food service: quantity, quality, variation, choice</td>
<td>46</td>
<td>225</td>
<td></td>
<td>271</td>
</tr>
<tr>
<td>2. Building cleanliness, pests, housekeeping</td>
<td>43</td>
<td>199</td>
<td></td>
<td>242</td>
</tr>
<tr>
<td>2. Equipment or building: disrepair, hazard, fire safety</td>
<td>49</td>
<td>193</td>
<td></td>
<td>242</td>
</tr>
<tr>
<td>3. Information regarding rights, benefits, services, the resident’s right to complain</td>
<td>120</td>
<td>72</td>
<td></td>
<td>192</td>
</tr>
<tr>
<td>4. Medications: administration or organization</td>
<td>38</td>
<td>132</td>
<td></td>
<td>170</td>
</tr>
<tr>
<td>5. Dignity, respect, poor staff attitudes</td>
<td>26</td>
<td>123</td>
<td></td>
<td>149</td>
</tr>
<tr>
<td>6. Failure to respond to requests for help, including call light</td>
<td>9</td>
<td>119</td>
<td>1</td>
<td>129</td>
</tr>
<tr>
<td>7. Environment, air temperature, water temperature, noise</td>
<td>24</td>
<td>103</td>
<td></td>
<td>127</td>
</tr>
<tr>
<td>8. Odors</td>
<td>13</td>
<td>87</td>
<td></td>
<td>100</td>
</tr>
<tr>
<td>9. Activities: availability, choice, appropriateness</td>
<td>12</td>
<td>77</td>
<td></td>
<td>89</td>
</tr>
<tr>
<td>10. Staff unresponsive, unavailable</td>
<td>8</td>
<td>78</td>
<td></td>
<td>86</td>
</tr>
<tr>
<td>11. Symptoms unattended or unnoticed</td>
<td>7</td>
<td>60</td>
<td></td>
<td>67</td>
</tr>
<tr>
<td>11. Residents unable to exercise choice, rights, preferences</td>
<td>22</td>
<td>43</td>
<td>2</td>
<td>67</td>
</tr>
<tr>
<td>12. Shortage of Staff</td>
<td>8</td>
<td>57</td>
<td></td>
<td>65</td>
</tr>
<tr>
<td>13. Involuntary discharge: planning, notification, procedure</td>
<td>19</td>
<td>41</td>
<td></td>
<td>60</td>
</tr>
<tr>
<td>13. Assistive Devices or equipment</td>
<td>5</td>
<td>55</td>
<td></td>
<td>60</td>
</tr>
<tr>
<td>14. Personal hygiene: bathing, nail and oral care, dressing, grooming</td>
<td>8</td>
<td>49</td>
<td></td>
<td>57</td>
</tr>
<tr>
<td>15. Personal property lost, stolen, used by others, destroyed</td>
<td>10</td>
<td>45</td>
<td>1</td>
<td>56</td>
</tr>
<tr>
<td>16. Resident conflict</td>
<td>7</td>
<td>46</td>
<td></td>
<td>53</td>
</tr>
<tr>
<td>17. Infection Control</td>
<td>12</td>
<td>38</td>
<td></td>
<td>50</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>486</td>
<td>1,842</td>
<td>4</td>
<td>2,332</td>
</tr>
</tbody>
</table>
Resolving Complaints

Once a complaint is identified, the ombudsman asks the resident’s permission to take steps to resolve the issue. With the resident’s permission, the ombudsman uses problem-solving skills to advocate and reach a solution. The ombudsman seeks feedback from the resident or complainant about how satisfied the person is with the solution, and then characterizes the outcome of the complaint based on that feedback.

The Office determined that a resolution rate of less than 70 percent may be an indication of a systemic problem. One problem may be ineffective ALF regulations to resolve the issue. Page 15 of this report includes policy recommendations to improve ALF regulations. Another problem may be ineffective problem-solving methods used by ombudsmen, so the Office provided training on complaint resolution strategies to improve resolution rates of some complaints.

Closing a Complaint

A complaint is closed after the ombudsman investigates and takes steps to resolve the issue. Overall, it takes an average of 34 days to close a complaint in an ALF. Infection control complaints take the least amount of time to close with an average of five days to close. Of the most common complaints, shortage of staff takes the longest to close, averaging 53 days.
### 20 Most Frequent Complaints: 2017

#### Percent of Complaints Resolved

<table>
<thead>
<tr>
<th>Complaint</th>
<th>Type A</th>
<th>Type B</th>
<th>All Facility Types</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Food service: quantity, quality, variation, choice</td>
<td>76%</td>
<td>66%</td>
<td>45</td>
</tr>
<tr>
<td>2. Building cleanliness, pests, housekeeping</td>
<td>91%</td>
<td>89%</td>
<td>24</td>
</tr>
<tr>
<td>2. Equipment or building: disrepair, hazard, fire safety</td>
<td>82%</td>
<td>88%</td>
<td>33</td>
</tr>
<tr>
<td>3. Information regarding rights, benefits, services, the resident’s right to complain</td>
<td>97%</td>
<td>90%</td>
<td>46</td>
</tr>
<tr>
<td>4. Medications: administration or organization</td>
<td>92%</td>
<td>82%</td>
<td>25</td>
</tr>
<tr>
<td>5. Dignity, respect, poor staff attitudes</td>
<td>81%</td>
<td>76%</td>
<td>36</td>
</tr>
<tr>
<td>6. Failure to respond to requests for help, including call light</td>
<td>78%</td>
<td>90%</td>
<td>28</td>
</tr>
<tr>
<td>7. Environment, air temperature, water temperature, noise</td>
<td>79%</td>
<td>86%</td>
<td>24</td>
</tr>
<tr>
<td>8. Odors</td>
<td>92%</td>
<td>90%</td>
<td>13</td>
</tr>
<tr>
<td>9. Activities: availability, choice, appropriateness</td>
<td>83%</td>
<td>72%</td>
<td>44</td>
</tr>
<tr>
<td>10. Staff unresponsive, unavailable</td>
<td>100%</td>
<td>82%</td>
<td>18</td>
</tr>
<tr>
<td>11. Symptoms unattended or unnoticed</td>
<td>71%</td>
<td>88%</td>
<td>21</td>
</tr>
<tr>
<td>11. Residents unable to exercise choice, rights, preferences</td>
<td>59%</td>
<td>65%</td>
<td>48</td>
</tr>
<tr>
<td>12. Shortage of Staff</td>
<td>50%</td>
<td>54%</td>
<td>53</td>
</tr>
<tr>
<td>13. Involuntary discharge: planning, notification, procedure</td>
<td>53%</td>
<td>63%</td>
<td>38</td>
</tr>
<tr>
<td>13. Assistive Devices or equipment</td>
<td>80%</td>
<td>76%</td>
<td>49</td>
</tr>
<tr>
<td>14. Personal hygiene: bathing, nail and oral care, dressing, grooming</td>
<td>25%</td>
<td>92%</td>
<td>27</td>
</tr>
<tr>
<td>15. Personal property lost, stolen, used by others, destroyed</td>
<td>80%</td>
<td>56%</td>
<td>38</td>
</tr>
<tr>
<td>16. Resident conflict</td>
<td>43%</td>
<td>52%</td>
<td>33</td>
</tr>
<tr>
<td>17. Infection Control</td>
<td>92%</td>
<td>92%</td>
<td>5</td>
</tr>
</tbody>
</table>
Trends to Watch: Admissions Policies

During the course of their work, ombudsmen have noticed problems with the written admission agreements that many ALFs require residents to sign at the time they move in. These agreements outline ALF policies and expectations for the residents, but ombudsmen have discovered that some of these documents contain provisions that infringe on residents’ rights. Below are a few examples.

1. *Waiving liability:* Residents are required to sign an agreement not to hold a facility responsible for injury sustained while in the facility, such as if a resident falls or is otherwise injured in the building. Sometimes these waivers are called “negotiated risk agreements” and used as a condition of the resident’s stay.

2. *Residents pay costs of renovation:* Due to renovations in one area of a facility, residents are relocated while their original room is remodeled. After the remodel, residents are expected to pay moving costs and a higher rate to return to their original room.

3. *Limiting use of medical equipment:* Residents are restricted from using their own electric wheelchair or scooter, unless a large deposit or fee is paid.

Ombudsmen recommend strengthening protections for residents by prohibiting facility policies from infringing on residents’ rights. For more information, see recommendations on page 16.

Providing Information

Ombudsmen are resources for residents, family members and facility staff. Residents frequently request information related to resident care, residents’ rights, finding and interpreting regulations, and decision-making authority. Family members, friends and facility staff might consult with ombudsmen about the role of the ombudsman, how to select an ALF, paying for care, residents’ rights and interpretation of regulations. In 2017, ombudsmen provided consultations to 7,698 residents and families and 1,431 facility staff.

Consultations Year by Year

<table>
<thead>
<tr>
<th></th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consultations</td>
<td>664</td>
<td>1,679</td>
<td>2,497</td>
<td>8,672</td>
<td>9,129</td>
</tr>
</tbody>
</table>
Ombudsmen in Assisted Living Facilities

Ombudsmen also provide support and consultation by attending service plan meetings with residents that include members of the interdisciplinary team and sometimes family members. During a meeting, the team reviews service plans, discusses problems and possible solutions, and makes changes to the plan to ensure a resident’s needs are met. Ombudsmen attend only at the request of the resident and, in 2017, attended 86 service plan meetings.

Resident council meetings allow residents to discuss topics and issues related to their homes. Residents can request ombudsmen share information at their council meetings about the role of the ombudsman, residents’ rights and other topics. Similar to resident council meetings, family council meetings allow family members of residents to discuss topics and issues related to residents’ care in the facility. Ombudsmen attend only at the invitation of the council and, in 2017, attended 115 resident council meetings and 6 family council meetings.

Representing Residents’ Interests

The State Long-term Care Ombudsman Program represents the interests of over 40,000 ALF residents. It is directed by the Older Americans Act to recommend improvements to the long-term care system to improve the lives of residents. Ombudsmen fulfill this mandate in a variety of ways, including working with facility owners, facility staff, legislators, regulatory services and governmental agencies to represent the interests of ALF residents.

The Office facilitates a collaboration of ALF stakeholders to improve the quality of care for residents in ALFs and encourage stakeholders to discuss policy questions or concerns, share best practices and consider policy initiatives. During the 85th Legislature, the collaboration provided an opportunity for stakeholders to discuss legislation, share draft language of proposed bills, and work toward solutions.
Hurricane Harvey: Lessons Learned

Hurricane Harvey made landfall in Texas August 25, 2017. It brought flooding, strong winds, and threatened the safety of many ALF residents. Ombudsmen connected with facilities and residents, to confirm the safety of residents and offer support to all involved. In addition, ombudsmen determined that changes are needed to safeguard residents and provide the highest level of care during emergencies like a hurricane.

All geographic factors need to be addressed in an evacuation plan
Heavy rains flooded streets, bayous, reservoirs and rivers. Facility evacuation plans need to address more than flood plains and storm surge.

Evacuation plans need to include procedures for volunteer rescuers
In some parts of the state, volunteer rescuers, like the Louisiana Cajun Navy, evacuated residents. Evacuation plans need to address how the facility will respond to volunteers and ensure the safety of residents evacuated by volunteer rescuers.

Resident safety concerns don’t end with the storm
Residents that were evacuated returned to their facilities when the flood waters receded. However, many facilities were flood damaged, which raised concerns of mold, contamination, construction debris and other hazards. Regulatory inspections need to occur in damaged facilities prior to residents returning, or as soon as practicable when residents shelter in place.

Residents and their families must be informed of evacuation plans
Residents were evacuated to other facilities and families were unable to find them. Evacuation plans must include how evacuation details will be communicated in accordance with privacy laws. These details must be reviewed with residents and their families when they move into the facility, and followed in the event of an emergency.
Recommendations*

The State Long-term Care Ombudsman Program makes the following recommendations to improve the lives of ALF residents.

*For nursing home recommendations, refer to the State Long-term Care Ombudsman’s annual reports.

Statutory Recommendations

Develop ALF specialization standards
ALFs serve residents with complex needs. Some ALFs specialize in providing care to residents with dementia and can obtain an Alzheimer's certification from the state to do so. However, some facilities are home to large concentrations of residents with other special needs, such as traumatic brain injuries (TBI), intellectual and developmental disabilities (IDD), and mental illness. There are no certifications specific to the needs of these residents. Licensing rules that are specific to these populations would better serve residents, inform the public on the services provided and help residents choose the appropriate level of care. Categorizing facilities by specialization would provide HHSC and other state agencies with more information about the residents and services provided by a facility. Three ALF specializations should be created in Chapter 247 of the Health and Safety Code (HSC) authorizing HHSC to implement rules for facilities that primarily serve people with TBI, IDD and mental illness.

Strengthen protections for ALF residents facing discharge
Unlike nursing home residents who live in a Medicaid certified facility, ALF residents on STAR+PLUS have no right to appeal their discharge to a state agency. This leaves approximately 4,000 residents in the STAR+PLUS program without access to due process in situations in which they might have been retaliated or discriminated against. This issue would be addressed by adding language in HSC §247.064(b) providing residents the right to a state fair hearing. While ALFs can be fined for discharging residents without proper reason or notice, the penalty for doing so is not a strong deterrent. In fact, a discharge violation if “corrected” within 45 days, results in no penalty. To create a stronger deterrent, the administrative penalty for violations of discharge procedures should be increased to no less than $1,000, and the Right to Correct in HSC §247.0452 should be removed.
Ombudsmen in Assisted Living Facilities

Study ALF residents and services
ALFs outnumber nursing facilities by over 600 facilities. Unlike nursing facilities, little information is collected about ALF services and residents. More information is needed about the medical needs of residents, services provided, and the costs of services. A study would help the public understand the services available in ALFs, and it would help state agencies understand who is living in ALFs and what services they need. The Office recommends redirecting general revenue from the Nursing Facility Quality Review that is currently being used to conduct surveys of nursing facility residents to study ALF residents and services in fiscal year 2020.

Rule Recommendations

Reorganize and clarify 40 TAC §92 Licensing Standards for Assisted Living Facilities Handbook
Title 40 of the Texas Administrative Code (TAC) §92 Licensing Standards for Assisted Living Facilities Handbook was first issued in 1991 and has not been comprehensively updated, other than updates to implement specific laws. In its current form, the sections are large, include a vast amount of topics, and some language is vague, providing insufficient direction. Residents’ rights are not always specific enough to serve as useful protection for the resident and guidance for the ALF staff. The Office recommends revising 40 TAC §92 Licensing Standards for Assisted Living Facilities to reorganize and clarify existing rules, and to ensure that residents’ rights are the cornerstone of ALF regulation.

Prohibit ALF resident policies from infringing on residents’ rights
As described in the Trends to Watch section on page 12 of this report, residents are required to sign admission agreements. Services and charges are described in the admission agreement between the resident and a facility. Ombudsmen report that some ALFs include policies in the admission agreement that limit residents’ rights. The Office recommends revising language in 40 TAC §92.41 (d) Resident Policies and (e) Admission Policies, prohibiting policies and agreements from infringing on the Resident Bill of Rights in 40 TAC §92.125.

Clarify dietary requirements
Dietary requirements in 40 TAC §92.41(m) food and nutrition services need to be revised to meet residents’ individual dietary needs. For the past three years, complaints about food service remain one of the most frequently reported. Food is not only a basic necessity but a vital part of a person’s quality of life. Food should be prepared to meet residents’ needs, including allergies, intolerances, and religious, cultural and ethnic preferences. The Office recommends adding language in §92.41(c)
requiring facilities to include food preferences in the resident assessment and provide person-centered meal options based on residents’ assessments in §92.41(m).

**Require notice 60 days prior to facility closing or changing policy**

ALFs are required to notify residents 30 days prior to ceasing to operate. If the State Long-term Care Ombudsman Program and Regulatory Services were included in the process, residents’ rights would be better protected, including choice of each resident’s new home. The Office recommends adding language to 40 TAC §92.125 requiring facility owners to report closures to HHSC Regulatory Services and the State Long-term Care Ombudsman Program 60 days prior to ceasing to operate.

Facility policies play an important role in the care, services and costs for residents. Clarifying when to notify residents of policy changes gives residents time to consider the implications, including whether they can afford to stay. The Office recommends revising language in 40 TAC §92.41 (d) Resident Policies and (e) Admission Policies requiring facilities to notify residents and residents’ representatives 60 days prior to the effective date of the changes.

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