

## **Assisted Living Facility**

### Frequently Asked Questions

Updated: October 2023

General FAQs regarding ALFs

#### **Where can I find information on Infection Prevention and Control Measures for Common Infections in LTC Facilities?**

Answer: You can find the link to the handbook on the [ALF provider portal](#) under the resources section [Infection Prevention and Control Measures for Common Infections in LTC Facilities](#).

#### **Who do I contact if I have questions?**

Answer: Questions regarding these FAQs can be directed to Long-term Care Regulation, Policy and Rules at [LTCRPolicy@hhs.texas.gov](mailto:LTCRPolicy@hhs.texas.gov) (preferred) or by calling 512-438-3161.

#### **What do I need to know to obtain an ALF license?**

Answer: To become licensed, a person must:

- properly complete a license application through [TULIP](#) (Texas Unified Licensure Information Portal);
- complete the [ALF Pre-licensure computer-based training](#);
- pay the required licensure fee;
- pass a Life Safety Code inspection. See Subchapter D, Facility Construction for specific Life Safety Code information.

Refer to the [Plan Review Fees & Expedited Life Safety Code Fee Charts](#) for information related to costs;

- pass an onsite health inspection (which includes the observation of care).

For more information on how to become an assisted living facility provider, please visit our [website](#). If you have questions regarding the licensing process, you can contact the Licensing Unit at 512-438-2630 and select option 3. If you have questions about the building requirements, you can reach the Architecture unit at 512-438-2371 or emailing [HHSLTCRArchitecturalUnit@hhs.texas.gov](mailto:HHSLTCRArchitecturalUnit@hhs.texas.gov).

### **How do I get a copy of the rules?**

Answer: [PL 19-02](#) explains how to download chapters from the Texas Administrative Code. The Secretary of State (SOS) now provides a copy of rules in a Microsoft Word, Text, or PDF format to the requestor via email. This option eliminates the need for HHSC to maintain handbooks containing rules. The HTML version of the TAC remains available through the [Secretary of State](#).

### **How to I find the ALF Provider portal?**

Answer: The [ALF Provider Portal](#) can be found on the HHSC website.

### **What are the training requirements for an ALF manager?**

Answer: A manager must complete a minimum of 24 hours of education on the management of assisted living facilities as listed in [§553.253\(a\)\(2\)](#). This must include the completion of eight hours of training on the assisted living standards within the first three months of employment.

Managers must also complete 12 hours of continuing education annually. The annual continuing education requirements are listed in [§553.253\(a\)\(3\)](#).

## **What are the CDC recommendations for health-care personnel who require a TB test?**

Answer: Refer to [PL 2020-25](#) for guidance.

## **Where can I go to request postings for signs required by HHSC?**

Answer: You can call the records management department at 512-438-2633 or email them at [RSLTCR.RecordsMgmt@hhs.texas.gov](mailto:RSLTCR.RecordsMgmt@hhs.texas.gov).

## **How do I sign up for GOV Delivery?**

Answer: You can sign up at the [GovDelivery website by following the instructions below](#).

- Select either "email" or "SMS, Text Message" as your preferred subscription type.
- Based on your subscription type, enter your email address or mobile phone number.
- Confirm your email address or phone number, if you choose to create an email subscription select your delivery preference, and submit a password if you want one.
- At a minimum, select ALF under the *provider alerts* section and your preferred topics.
- When done click "Submit."
- Review the "you may be interested page" and, at the bottom of the page, select "By checking this box, you consent to the data privacy policy for each of the above listed accounts." And then select "submit."
- Once on the final page, you will see "Success". Select Finish and you will be enrolled to receive future emails.

## **What are the types of ALFs?**

Answer: An assisted living facility provides individualized health and personal care assistance in a homelike setting with an emphasis on personal dignity, autonomy, independence, and privacy. Facilities can be large apartment-like settings or private residences. Services include meals, bathing, dressing,

toileting, and administering or supervising medication.

- A **Type A facility** cares for residents who do not require routine attendance during sleeping hours and are capable of following directions in an emergency.
- A **Type B facility** is for residents who require staff assistance to evacuate, are not capable of following directions in an emergency, and require nighttime attendance.

### **Do I have to provide Health Maintenance Actives (HMA) in a facility?**

Answer: The use of HMAs for any ALF resident is optional and based on the resident's individual assessment. Before a task can be designated as an HMA, the RN must conduct a resident assessment. Part of this assessment evaluates the predictability of the resident's condition, as well as the ability of the resident or resident's legally authorized representative (LAR) or other adult chosen by the resident to participate in directing staff on how to perform the HMA.

### **Are ALF's required to check the registered sex offender list for residents prior to admission?**

Answer: [PL 13-39](#) covers this precise topic. [Health and Safety Code Chapter 325](#) requires an ALF manager to perform a search of the Sex Offender Registry (found in the [Texas Code of Criminal Procedure, Chapter 62](#)) to determine if a prospective or new resident is listed on the registry. The manager must search the registry, as soon as practicable, after a person requests to live at the ALF or is assigned to live at the ALF as a condition of community supervision or as a condition of release on parole or mandatory supervision.

### **What is the Blackboard system?**

Answer: Blackboard is a system used to send emergency and outreach notifications through email, phone, voice, and text if available. This way HHSC and providers can communicate more effectively in an emergency or disaster. [PL 2022-32](#) discusses more on the Blackboard Connect Emergency Communication System requirements.

### **Where do I find the new memory care disclosure form?**

Answer: [PL 2022-29](#) clarifies the new rules at 26 TAC §§[553.3](#) and [553.259](#) which require an ALF to provide an HHSC-prescribed memory care disclosure statement if the facility advertises, markets, or otherwise promotes that it provides memory care services to residents. The disclosure statement must indicate if the facility is certified or not certified to provide services to residents with Alzheimer’s disease or related disorders.

### **Does an ALF have to follow OSHA?**

Answer: An ALF must follow OSHA if they have a certain number of employees. There are several conditions that could make a small business partially exempt from [OSHA regulations](#). OSHA outlines all of these conditions in detail on their [website](#). The exemptions may be based on a company’s size, industry, business type, and location.

### **How does an ALF file a self-report for incidents related to infection control?**

Answer: HHSC CII has added an Infection Control option in the Incident Category field in [TULIP](#) . LTC providers can use this option when submitting [online](#) facility-reported incidents related to infection control, such as outbreaks. See [PL 18-20](#) for additional guidance on what information a provider must include in an initial incident report made to CII and in the provider investigation report submitted to CII. You can also refer to CII [FAQs](#) for additional information.

### **What has changed about the CII self-reporting voicemail option?**

Answer: The provider self-reporting voicemail option was transitioned out of service on Dec. 31, 2022. Effective Jan. 1, 2023, provider self-reported incidents must be submitted online via [TULIP](#). Email [ciicomplaints@hhs.texas.gov](mailto:ciicomplaints@hhs.texas.gov) and ensure that all initial self-reported incidents include the relevant information detailed in Provider Letter 18-20. You can still call 1-800-458-9858 between 7am and 7pm and leave a message after hours, but it is just a regular voice mail.

### **Personal Protective Equipment (PPE)**

All facilities must follow the infection control policies and procedures in [§553.261\(f\)](#). Information in this section is provided by the CDC.

### **Can I still request expedited PPE delivery?**

Answer: Yes, expedited PPE delivery is available for a limited time through the Texas Division of Emergency Management. These items include surgical masks, N95 masks, KN95 masks, gloves, hand sanitizer, and disinfectant wipes. Each of these items have a specific shelf life. LTC providers who have a current need for these specific resources, can submit requests by visiting [star.tdem.texas.gov](http://star.tdem.texas.gov) and selecting the "Expedited PPE" button. The generic passcode for the items listed above is: 112518. Items are available on a first-come, first-served basis. This system is only to be used one time.

### **Are staff required to wear masks?**

Answer: All facilities must have policies and procedures regarding infection control measures and may utilize CDC guidance to determine when masks should be used. HHSC does not have a rule requiring mask usage but does have a requirement for facilities to create and follow their own infection control policies and procedures.

## **Visitation**

Per resident rights, facilities cannot restrict visitors. Each resident in the facility has the right to privacy while attending to personal needs and a private place for receiving visitors or associating with other residents, unless providing privacy would infringe on the rights of other residents.

## **Staff**

### **What are the CDC recommendations for health-care personnel who require a TB test?**

Answer: Refer to [PL 2020-25](#) for guidance.

### **Are there any concerns related to interactions between the TB tests and COVID-19 vaccines?**

Answer: No, TB screening should not be delayed for people with risk factors for TB who have been vaccinated against COVID-19. The CDC has information about [TB screening practices and the COVID-19 vaccine](#).

It is recommended that those in charge of TB screening visit the CDC website periodically for any updates regarding TB screening practices. When considering the impact of TB in your area, please consult with your regional

or local health department (R/LHD). Report suspected and confirmed TB infections to your R/LHD.

## **ALF RN Delegation FAQs**

### **What is RN delegation?**

Answer: [26 TAC 553.3](#) states, "in the assisted living facility context, written authorization by a registered nurse (RN) acting on behalf of the facility for personal care staff to perform tasks of nursing care in selected situations, where delegation criteria are met for the task. The delegation process includes nursing assessment of a resident in a specific situation, evaluation of the ability of the personal care staff, teaching the task to the personal care staff, ensuring supervision of the personal care staff in performing a delegated task, and re-evaluating the task at regular intervals." (Also see [22 TAC 225.4](#))

### **What tasks can be delegated?**

Answer: Per [22 TAC 225.10](#), the following tasks may be delegated by an RN:

- Non-invasive and non-sterile treatments with a low risk of infection
- Administration of medications that are administered:
  - orally or via permanently placed feeding tube inserted in a surgically created orifice or stoma
  - sublingually
  - topically
  - eye and ear drops; nose drops and sprays
  - unit dose medication administration by way of inhalation for prophylaxis and/or maintenance
  - administration of oral unit dose medications from the client's daily pill reminder container
- Administration of subcutaneous insulin or other injectable medication prescribed in treatment of Diabetes Mellitus
- Oxygen administration for the purpose of non-acute respiratory

maintenance

### **What tasks cannot be delegated?**

Answer: Per [22 TAC §225.13](#), the following tasks may not be delegated by an RN:

- Nursing assessment
- Injectable medications not including insulin or other injectable medication prescribed in treatment of Diabetes Mellitus
- First dose medications for newly prescribed medications
- Calculation of any medication doses
- Wound care other than basic first aid
- Sterile procedures

### **Which injectable medications may be delegated by a RN?**

Answer: Per [22 TAC §225.12](#), the administration of subcutaneous insulin or other injectable medication prescribed in the treatment of Diabetes Mellitus can be delegated as long as the resident's condition is stable and predictable and does not require unit dose calculation. All other injectable medications are **not** allowed to be delegated to unlicensed personnel.

### **Who can delegate tasks to unlicensed personnel?**

Answer: Only an Advance Practice Registered Nurse (APRN) or an RN can delegate tasks to unlicensed personnel. Per the Board of Nursing (BON) [Frequently Asked Questions \(FAQs\)](#), RNs and APRNs are responsible for delegating the right task to the right person in the right set of conditions. If an ALF does not employ or contract with an RN, delegation cannot take place.

### **Can a Licensed Vocational Nurse (LVN) delegate tasks?**

Answer: No. According to the BON [Frequently Asked Questions](#), an LVN is

not able to delegate tasks to unlicensed personnel as the delegation decision is based on the comprehensive assessment. An LVN's practice is to perform a focused assessment [[22 TAC §217.11 \(2\)\(A\)\(i\)](#)] whereas an RN performs the comprehensive assessment.

### **What determines that a task can be delegated?**

Answer: The five rights of delegation.

According to [22 TAC §225.9 \(4\)](#), the five rights of delegation are:

1. the right task,
2. the right person to whom the delegation is made,
3. the right circumstances,
4. the right direction and communication by the RN and
5. the right supervision.

Per [22 TAC §225.9 \(a\)](#), in order to delegate a task, the RN:

- determines that the task does not require the unlicensed person to exercise nursing judgement;
- verifies the competency of the unlicensed person to perform the task, including the unlicensed person's ability to recognize and inform the RN of changes related to resident care in completing the task. The RN must have either:
  - instructed the unlicensed person in the delegated task, or
  - verified the unlicensed person's competency to perform the nursing task based on personal knowledge of the training, education, experience, and/or certification/permit of the unlicensed person;
- determines, in consultation with the client or the client's responsible adult, the level of supervision and frequency of supervisory visits required, taking into account:
  - the stability of the client's status,
  - the training, experience, and capability of the unlicensed person to whom the nursing task is delegated,

- the nature of the nursing task being delegated,
- the proximity and availability of the RN to the unlicensed person when the nursing task will be performed, and
- the level of participation of client or client's responsible adult; and
- considers whether the five rights of delegation can be met: the right task, the right person to whom the delegation is made, the right circumstances, the right direction and communication by the RN, and the right supervision.

### **Who can administer medications in an ALF?**

Answer: [22 TAC §225.4](#) defines administration of medications as removal of an individual/unit dose from a previously dispensed, properly labeled container; verifying it with the medication order; giving the correct medication and the correct dose to the proper client at the proper time by the proper route; and accurately recording the time and dose given.

According to [26 TAC §553.261 \(a\)\(1\)\(A\)](#), medications may be administered in an ALF by a person who:

1. holds a current license under state law that authorizes the licensee to administer medication;
2. holds a current medication aide permit and who;
  - acts under the authority of a person who holds a current nursing license under state law that authorizes the licensee to administer medication; and
  - functions under the direct supervision of a licensed nurse on duty or on call by the facility; or
3. is an employee of the facility to whom medication administration has been delegated by an RN, who has trained the employee to administer medications or verified their competency. The delegation of medication is governed by 22 TAC 225 (concerning RN Delegation to Unlicensed Personnel and Tasks not Requiring Delegation in Independent Living Environments for Clients with Stable and Predictable Conditions), which implements the Nursing Practice Act.

As a reminder, all medications must be administered in conformance with the physician's orders.

**Can ALFs delegate administration of controlled medications?**

Answer: HHSC does not preclude RNs from delegating the administration of prescribed controlled substances. Per [26 TAC 553.261 \(a\)\(1\)](#), medications must be administered according to physician's orders. Per [22 TAC 225.10](#), administration can be delegated for medications that are administered: orally or via permanently placed feeding tube inserted in a surgically created orifice or stoma; sublingually; topically; eye and ear drops; nose drops and sprays; vaginal or rectal gels or suppositories; unit dose medication administration by way of inhalation for prophylaxis and/or maintenance; and oxygen administration for the purpose of non-acute respiratory maintenance.

**Can initial dose medications be delegated?**

Answer: No. Per [22 TAC §225.13 \(5\)\(E\)](#), administration of the initial dose of a medication that has not been previously administered to the resident cannot be delegated unless the RN documents in the resident's medical record the rationale for authorizing the unlicensed person to administer the initial dose.

**When a delegated task is being performed, does the delegating nurse have to be physically available for oversight?**

Answer: No. The RN or another qualified RN must be available in person or by telecommunications when the unlicensed person is performing the task. Please see [22 TAC 225.4](#).

**Does the competency of the unlicensed personnel have to be documented?**

Answer: Yes. Per [22 TAC §225.9 \(c\)](#), the competency of the unlicensed person must be adequately documented.

## **Resources**

### **Do I need to report a positive case of COVID?**

Answer: No. The ALF COVID-19 Emergency rules have expired, and ALFs are no longer required to report positive cases of COVID-19 to HHSC through CII. Facilities are still required to report to the local health authority, or DSHS if there is no local health authority, when there is a positive case of COVID-19 or any other communicable disease.

### **Where can I find regional survey contact information?**

Answer: You may find regional survey operations contact information as well as a map of the regional boundaries on the [Long-Term Care Regulatory Regional Contact Number webpage](#). A provider physically located in a particular region will contact the HHSC LTCR regional staff in the same region; for example, a provider located in Region 1 will contact the Region 1 HHSC staff.

### **Where can I find a directory listing of licensed ALF facilities?**

Answer: Directories of Assisted Living facilities can be found on the [ALF portal](#). You can access the following ALF directories from the portal:

- [Directory of all ALFs \(Excel\)](#)

### **Where can I find information on how to contact the ALF contracting staff?**

Answer: You can reach out to the ALF contracting staff in the following ways:

- Contracting information: 512-438-2080
- Contract Oversight: [Community Services Contracts Unit Manager](#)
- Licensing and certification: 512-438-2630
- Policy Information: 512-438-3161 / [LTCRPolicy@hhs.texas.gov](mailto:LTCRPolicy@hhs.texas.gov)
- Regional nurses: [Community Services regional contacts for your region](#)
- [Regulatory Services regional contacts](#)

### **What can I do to prepare for emergencies?**

Answer: Providers must follow emergency preparedness rules and their own internal emergency preparedness policies and procedures. Facilities with

generators should perform any maintenance or needed testing while the weather is mild. This will ensure the equipment functions in case of extreme cold or power loss. It is important to review building integrity and identify any areas that may need repair, reinforcement, or weatherproofing. Multi-story buildings should review any other needed measures should evacuation be required and have a plan in place for how to move residents around or out of the building if there is a loss of power. Preparing for disaster is the most important step in protecting our most fragile Texans and reducing the risk for loss of life.