TITLE 26 HEALTH AND HUMAN SERVICES

PART 1 HEALTH AND HUMAN SERVICES COMMISSION

CHAPTER 553 LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES

SUBCHAPTER C STANDARDS FOR LICENSURE

§553.44. Emergency Preparedness and Response.

(a) Definitions. The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise.

(1) Designated emergency contact--A person that a resident or a resident’s legally authorized representative identifies in writing for the facility to contact in the event of an emergency.

(2) Disaster or emergency situation--An impending, emerging, or current situation that:

(A) interferes with normal activities of a facility and its residents;

(B) may:

(i) cause injury or death to a resident or staff member of the facility; or

(ii) cause damage to facility property;

(C) requires the facility to respond immediately to mitigate or avoid the injury, death, damage or interference; and

(D) except as it relates to an epidemic or pandemic or to the extent it is incident to another emergency situation, does not include a situation that arises from the medical condition of a resident, such as cardiac arrest, obstructed airway, or cerebrovascular accident.

(3) Emergency Management Coordinator (EMC)--The person who is appointed by the local mayor or county judge to plan, coordinate, and implement public health emergency preparedness planning and response within the local jurisdiction.

(4) Emergency Preparedness Coordinator (EPC)--The facility staff person with the responsibility and authority to direct, control, and manage the facility’s response to an emergency situation.

(5) Evacuation Summary--A current summary of the facility’s emergency preparedness and response plan that includes:

(A) the name, address, and contact information for each receiving facility or pre-arranged evacuation destination identified by the facility under subsection (g)(3)(B) of this section;

(B) the procedure for safely transporting residents and any other individuals evacuating a facility;

(C) the name and contact information of the facility staff member to contact for evacuation information;

(D) the facility's primary mode of communication to be used during an emergency situation and the facility's supplemental or alternate mode of communication;

(E) the facility’s procedure for notifying persons referenced in subsection (g)(5) of this section as soon as practicable about the facility’s actions affecting residents during an emergency situation, including an impending or actual evacuation, and for maintaining ongoing communication with them for the duration of the emergency situation or evacuation;

(F) a statement about training that is available to a resident, the resident’s legally authorized representative, and each designated emergency contact for the resident, on procedures under the facility’s plan that involve or impact each of them, respectively; and

(G) the facility’s procedures for when a resident evacuates with a person other than a facility staff member.

(6) Plan--A facility's emergency preparedness and response plan.

(7) Receiving facility--A separate licensed assisted living facility:

(A) from which a facility has documented acknowledgement from an identified authorized representative, as described in subsection (i)(2)(C) of this section; and

(B) to which the facility has arranged in advance of a disaster or emergency situation to evacuate some or all of a facility’s residents, on a temporary basis due to a disaster or emergency situation, if, at the time of evacuation:

(i) the receiving facility can safely receive and accommodate the residents; and

(ii) the receiving facility has any necessary licensure or emergency authorization required to do so.

(8) Risk assessment--The process of evaluating, documenting, and examining potential disasters or emergency situations that pose the highest risk to a facility, and their foreseeable impacts, based on the facility’s geographical location, structural conditions, resident needs and characteristics and other influencing factors, in order to develop an effective emergency preparedness and response plan.

(b) A facility must conduct and document a risk assessment that meets the definition in subsection (a)(8) of this section for potential internal and external emergency situations or disasters relevant to the facility's operations and geographical area, and that pose the highest risk to a facility, such as:

(1) a fire or explosion;

(2) a power, telecommunication, or water outage; contamination of a water source; or significant interruption in the normal supply of any essential, such as food or water;

(3) a wildfire;

(4) a hazardous materials accident;

(5) an active or threatened terrorist or shooter, a detonated bomb or bomb threat, or a suspicious object or substance;

(6) a flood or a mudslide;

(7) a hurricane or other severe weather conditions;

(8) an epidemic or pandemic;

(9) a cyber-attack; and

(10) a loss of all or a portion of the facility.

(c) A facility must develop and maintain a written emergency preparedness and response plan based on its risk assessment under subsection (b) of this section and that is adequate to protect facility residents and staff in an emergency situation.

(1) The plan must address the eight core functions of emergency management, which are:

(A) Direction and Control;

(B) Warning;

(C) Communication;

(D) Sheltering arrangements;

(E) Evacuation;

(F) Transportation;

(G) Health and medical needs; and

(H) Resource management.

(2) The facility must prepare for an emergency situation in accordance with its plan and follow each plan procedure and requirement, including contingency procedures, at the time it is called for in the event of an emergency situation. In addition to meeting the other requirements of this section, the emergency preparedness plan must:

(A) document the contact information for the EMC for the area, as identified by the office of the local mayor or county judge;

(B) include a process that ensures communication with the EMC, both as a preparedness measure and in anticipation of and during a developing and occurring emergency situation; and

(C) include the location of a current list of the facility's resident population, which must be maintained with the contact lists required under the subsection (g)(3) of this section, that identifies:

(i) residents with Alzheimer’s disease or related disorders;

(ii) residents who have an evacuation waiver approved under §553.41(f)(2) of this subchapter (relating to Standards for Type A and Type B Assisted Living Facilities); and

(iii) residents with mobility limitations or other special needs who may need specialized assistance either at the facility or in case of evacuation.

(3) A facility must:

(A) notify the EMC of the facility’s emergency preparedness and response plan, and coordinate its planning and emergency response with the EMC as requested by the EMC; and

(B) document all communications with the EMC regarding the plan.

(d) A facility must:

(1) maintain a current printed copy of the plan in a central location that is accessible to all staff, residents, and resident’s legally authorized representatives at all times;

(2) at least annually, review the plan, its evacuation summary, if any, and the contact lists described in subsection (g)(3) of this section, and update each:

(A) as information changes;

(B) within 30 days or as soon as practicable following a disaster or emergency situation;

(C) within 30 days after a drill, if, based on the drill, a shortcoming in the plan is identified;

(D) within 30 days after a change in a facility policy or the Texas Health and Human Services Commission (HHSC) rule that would impact the plan; and

(E) when an evacuation waiver is approved under §553.41(f)(2) of this subchapter;

(3) document reviews and updates conducted under paragraph (2) of this subsection, including the date of each review and dated documentation of changes made to the plan based on a review;

(4) provide a resident and the resident’s legally authorized representative with a written copy of the plan or an evacuation summary, as defined in subsection (a)(5) of this section, upon admission, on request, and when the facility makes a significant change to a copy of the plan or evacuation summary it has provided to a resident or a resident’s legally authorized representative;

(5) provide the information described in subsection (a)(5)(A) to a resident or legally authorized representative who requests an evacuation summary and does not receive it under paragraph (4) of this subsection;

(6) notify each resident, next of kin, or legally authorized representative, in writing, how to register for evacuation assistance with the Texas Information and Referral Network, (2-1-1 Texas); and

(7) register as a provider with 2-1-1 Texas to assist the state in identifying persons who may need assistance in an emergency situation. In doing so, the facility is not required to identify or register individual residents for evacuation assistance.

(e) Core Function One: Direction and Control. A facility's plan must contain a section for direction and control that:

(1) designates the EPC, who is the facility staff person with the responsibility and authority to direct, control, and manage the facility's response to an emergency situation;

(2) designates an alternate EPC, who is the facility staff person with the responsibility and authority to act as the EPC if the EPC is unable to serve in that capacity; and

(3) assigns responsibilities to staff members by designated function or position, and describes the facility’s system for ensuring that each staff member clearly understands the staff member’s own role and how to execute it, in the event of an emergency.

(f) Core Function Two: Warning. A facility's plan must contain a section for warning that:

(1) describes applicable procedures, methods, and responsibility for the facility, and, based on facility coordination with them, for the EMC and other outside organizations to notify the EPC or alternate EPC, as applicable, of an emergency situation;

(2) identifies whom, including during off hours, weekends, and holidays, the EPC or alternate EPC, as applicable, will notify of an emergency situation, and the methods and procedures for notification;

(3) describes a procedure for keeping all persons present in the facility informed of the facility’s present plan for responding to a potential or current emergency situation that is impacting or threatening the area where the facility is located; and

(4) addresses applicable procedures, methods, and responsibility for monitoring local news and weather reports regarding a disaster or potential disaster or emergency situation, taking into consideration factors such as:

(A) location-specific natural disasters;

(B) whether a disaster is likely to be addressed or forecast in the reports; and

(C) the conditions, natural or otherwise, under which designated staff become responsible for monitoring news and weather reports for a disaster or emergency situation.

(g) Core Function Three: Communication. A facility's plan must contain a section for communication that:

(1) identifies the facility's primary mode of communication to be used during an emergency situation and the facility's supplemental or alternate mode of communication, and procedures for communication if telecommunication is affected by a disaster or emergency situation;

(2) includes instructions on when to call 911;

(3) includes the location of a list of current contact information, where it is easily accessible to staff at all times, for each of the following:

(A) the legally authorized representative and designated emergency contacts for each resident;

(B) each receiving facility and pre-arranged evacuation destination, including alternate pre-arrangements, together with the written acknowledgement for each, as described and required in subsection (i)(2)(C) of this section;

(C) home and community support services agencies and independent health care professionals that deliver health care services to residents in the facility, along with a list of residents under the care of each;

(D) personal contact information for facility staff, and

(E) the facility’s resident population that identifies residents who may need specialized assistance at the facility or in case of evacuation, as described in subsection (c)(2)(C) of this section;

(4) provides a method for the facility to communicate information to the public about its status during an emergency situation; and

(5) describes the facility’s procedure for notifying at least the following persons, as applicable and as soon as practicable, about facility actions affecting residents during an emergency situation, including an impending or actual evacuation, and for maintaining ongoing communication for the duration of the emergency situation or evacuation:

(A) all facility staff members, including off-duty staff;

(B) each facility resident;

(C) any legally authorized representative of a resident;

(D) each resident’s designated emergency contacts;

(E) each home and community support services agency or independent health care professional that delivers health care services to a facility resident;

(F) each receiving facility or evacuation destination to be utilized, if there is an impending or actual evacuation, which must be in accordance with the pre-arranged acknowledged procedures described in subsection (i)(2)(C) of this section, where applicable and must verify that the destination is available and ready to safely receive the evacuated residents;

(G) the driver of a vehicle transporting residents or staff, medication, records, food, water, equipment, or supplies during an evacuation, and the employer of a driver who is not a facility staff person; and

(H) the EMC.

(h) Core Function Four: Sheltering Arrangements. A facility's plan must contain a section for sheltering arrangements that:

(1) describes the procedure for making and implementing a decision to remain in the facility during a disaster or emergency situation, that includes:

(A) the arrangements, staff responsibilities, and procedures for accessing and obtaining medication, records, equipment and supplies, water and food, including food to accommodate an individual who has a medical need for a special diet;

(B) facility arrangements and procedures for providing power and safe ambient temperatures in areas used by residents during a disaster or emergency situation;

(C) if necessary, sheltering facility staff or emergency staff involved in responding to an emergency situation and, as necessary and appropriate, their family members;

(2) includes a procedure for notifying HHSC Regulatory Services regional office for the area in which the facility is located and, in accordance with subsection (g)(5) of this section, the EMC, immediately after the EPC or alternate EPC, as applicable, makes a decision to remain in the facility during a disaster or emergency situation.

(i) Core Function Five: Evacuation.

(1) A facility must evacuate if a mandatory evacuation order is given by the county judge of the county in which the facility is located, the mayor of the municipality in which the facility is located, or is issued by the governor.

(2) A facility’s plan must contain a section for evacuation that:

(A) identifies evacuation destinations and routes, including at least each pre-arranged evacuation destination and receiving facility described in subparagraph (C) of this paragraph, and includes a map that shows each identified destination and route;

(B) describes the procedure for making and implementing a decision to evacuate some or all residents to one or more receiving facilities or pre-arranged evacuation destinations, with contingency procedures, and a plan for any resident pets or service animals;

(C) includes the location of a current documented acknowledgment with an identified authorized representative of at least one receiving facility or pre-arranged evacuation destination, and at least one alternate. The documented acknowledgment must include acknowledgement by the receiving facility or pre-arranged evacuation destination of:

(i) arrangements for the receiving facility or pre-arranged destination to receive an evacuating facility’s residents; and

(ii) the process for the facility to notify the applicable receiving facility or pre-arranged destination of the facility’s plan to evacuate and to verify that it is available and ready to safely receive the evacuated residents;

(D) includes the procedure and the staff responsible for:

(i) notifying HHSC Regulatory Services regional office for the area in which the facility is located and, in accordance with subsection (g)(5) of this section, the EMC, immediately after the EPC or alternate EPC, as applicable, makes a decision to evacuate;

(ii) ensuring that sufficient facility staff with qualifications necessary to meet resident needs accompany evacuating residents to the receiving facility, pre-arranged evacuation destination, or other destination to which the facility evacuates, and remain with the residents, providing any necessary care, for the duration of the residents’ stay in the receiving facility or other destination to which the facility evacuates;

(iii) ensuring that residents and facility staff present in the building have been evacuated;

(iv) accounting for and tracking the location of residents, facility staff, and transport vehicles involved in the facility evacuation, both during and after the facility evacuation, through the time the residents and facility staff return to the evacuated facility;

(v) accounting for residents absent from the facility at the time of the evacuation, tracking residents who evacuate on their own or with a third party, and notifying them that the facility has been evacuated;

(vi) overseeing the release of resident information to authorized persons in an emergency situation to promote continuity of a resident's care;

(vii) contacting the EMC to find out if it is safe to return to the geographical area after an evacuation;

(viii) making or obtaining, as appropriate, a comprehensive determination whether and when it is safe to re-enter and occupy the facility after an evacuation;

(ix) returning evacuated residents to the facility and notifying persons listed in subsection (g)(5) of this section who were not involved in the return of the residents; and

(x) notifying the HHSC Regulatory Services regional office for the area in which the facility is located immediately after each instance when some or all residents have returned to the facility after an evacuation.

(j) Core Function Six: Transportation. A facility's plan must contain a section for transportation that:

(1) identifies current arrangements for access to a sufficient number of vehicles to safely evacuate all residents;

(2) identifies facility staff designated to drive a facility owned, leased or rented vehicle during an evacuation to include:

(i) notification procedures to ensure their availability at the time of an evacuation; and

(ii) methods for maintaining communication with vehicles, staff, and drivers transporting facility residents or staff during evacuation, in accordance with subsection (g)(5) of this section;

(3) includes procedures for safely transporting residents, facility staff, and any other individuals evacuating a facility; and

(4) includes procedures for the safe and secure transport of, and staff’s timely access to, the following resident items needed during an evacuation that includes oxygen, medications, records, food, water, equipment, and supplies.

(k) Core Function Seven: Health and Medical Needs. A facility's plan must contain a section for health and medical needs that:

(1) identifies special services that residents use, such as dialysis, oxygen, or hospice services;

(2) identifies procedures to enable that each resident continues to receive from the appropriate provider during an emergency situation the services identified under paragraph (1) of this subsection; and

(3) identifies procedures to enable that the facility notifies home and community support services agencies and independent health care professionals that deliver services to residents in the facility of an evacuation, as required under subsection (g)(5)(E) of this section.

(l) Core Function Eight: Resource Management. A facility's plan must contain a section for resource management that:

(1) identifies a plan for identifying, obtaining, transporting, and storing medications, records, food, water, equipment, and supplies needed for both residents and evacuating staff during an emergency situation;

(2) identifies facility staff, by position or function, who are assigned to access or obtain the items under paragraph (1) of this subsection and other necessary resources, and to ensure their delivery to the facility, as needed, or their transport in the event of an evacuation;

(3) describes the procedure to ensure medications are secure and maintained at the proper temperature throughout an emergency situation; and

(4) describes procedures and safeguards to protect the confidentiality, security, and integrity of resident records throughout an emergency situation and any evacuation of residents.

(m) Receiving Facility. To act as a receiving facility, as defined in paragraph (a)(7) of this section, a facility’s plan must include procedures for accommodating a temporary emergency placement of one or more residents from another assisted living facility, only in an emergency situation and only if:

(1) the facility does not exceed its licensed capacity, unless pre-approved in writing by HHSC, and the excess is not more than 10% of the facility’s licensed capacity;

(2) the facility ensures that the temporary emergency placement of one or more residents evacuated from another assisted living facility does not compromise the health or safety of any evacuated or facility resident, facility staff, or any other individual;

(3) the facility is able to meet the needs of all evacuated residents and any other persons it receives on a temporary emergency basis, in accordance with §553.18(h) of this chapter (relating to Increase in Capacity), while continuing to meet the needs of its own residents, and any of its own staff or other individuals it is sheltering at the facility during an emergency, in accordance with its plan under subsection (h) of this section;

(4) the facility maintains a log of each additional individual being housed in the facility that includes the individual’s name, address, and the date of arrival and departure.

(5) the receiving facility ensures that each temporarily placed resident has at arrival, or as soon after arrival as practicable and no later than necessary to protect the health of the resident, each of the following necessary to the resident’s continuity of care:

(A) necessary physician orders for care;

(B) medications;

(C) a service plan;

(D) existing advance directives;

(E) contact information for each legally authorized representative and designated emergency contact of an evacuated resident, and a record of any notifications that have already occurred; and

(F) contact information for a resident’s home and community support services agency or health care professional, if such services were currently contracted to be delivered to the resident at the resident’s evacuated facility.

(n) Emergency Preparedness and Response Plan Training. The facility must:

(1) provide staff training on the emergency preparedness plan at least annually;

(2) train a facility staff member on the staff member's responsibilities under the plan:

(A) before the staff member assumes job responsibilities, if the staff member’s position has responsibilities under the plan; and

(B) when the plan changes or a staff member’s responsibilities under the plan change;

(3) conduct at least one unannounced annual drill with facility staff for severe weather or another emergency situation identified by the facility as likely to occur, based on the results of the risk assessment required by subsection (b) of this section;

(4) offer training to each resident, legally authorized representative, if any, and each designated emergency contact, on procedures under the facility’s plan that involve or impact each of them, respectively; and

(5) document the facility's compliance with each paragraph of this subsection at the time it is completed.

(o) Self-Reported Incidents Related to a Disaster or Emergency Situation.

(1) A facility must report a fire to HHSC as follows:

(A) by calling 1-800-458-9858 immediately after the fire or as soon as practicable during the course of an extended fire; and

(B) by submitting a completed HHSC form titled "Fire Report for Long Term Care Facilities" within 15 calendar days after the fire.

(2) A facility must report any emergency situation that caused the death or serious injury of a resident, or causes a threat to resident health and safety to HHSC as follows:

(A) by calling 1-800-458-9858 immediately after the incident, or, if the incident is of extended duration, as soon as practicable after the injury, death or threat to the resident; and

(B) by conducting an investigation of the emergency situation and resulting resident injury or death, and submitting a completed HHSC form 3613-A titled "SNF, NF, ICF/IID, ALF, DAHS and PPECC Provider Investigation Report with Cover Sheet.” The facility must submit the completed form within five working days after making the telephone report required by subparagraph (A) of this paragraph.