

Section	New Location (or same)	Recommendations
SUBCHAPTER A INTRODUCTION		
§553.3 Definitions	Same	Request for a revised definition of "bedfast" to clarify what would constitute a "similar device" to a stretcher or bed.
§553.3 Definitions	Same	Request to refine "controlling person" definition to read as "or other business entity that contract with the licensee to operate an assisted living facility on behalf of the licensee".
§553.5 Types of Assisted Living Facilities	Same	Request for addition of specific language to address "similar device" concern for the definition of "bedfast".
§553.9 General Characteristics of a Resident	Same	Request for clarity regarding the use of the subsection or a caveat to not the list of general characteristics of a proposed resident is not exhaustive.
SUBCHAPTER B Licensing		
§553.17 Criteria for Licensing	Same	Recommend reinsertion of deleted language.
SUBCHAPTER E STANDARDS FOR LICENSURE		
§553.259 Admission Policies & Procedures	Same	• Request to include all documents and policies that must be provided upon admission into this section. • Request for additional clarity or deletion of Medicare benefit notification language. • Request to align delivery of service plan copy with current 14 day requirement.
§553.261 Inappropriate Placement in a Type A or Type B Facility	Same	• Request to reference the specific provisions the surveyor will rely on to determine inappropriate placement. Request to allow a facility of determination of inappropriate placement as basis for transfer or discharge. • Request to clarify evacuation criteria • Request for further

		guidance regarding aging in place options and the creation of forms for the waiver process.
New Section	§553.263 Resident Transfer and Discharge	• Request to include the following language for resident transfer or discharge: 1.a repeated failure to follow facility rules and policies, by the resident or their guests/visitor.2.Other “just cause”. • Request to include circumstances where a resident is unable or unwilling to obtain outside services or refusing to follow care recommendations as a reason for transfer or discharge • Request to include language for immediate transfer or discharge if the resident threatens the health and safety of staff, including the mental health of staff. • Request to include language such as “if applicable” to account for situations where transfers or discharges are not to receiving providers. • Request to clarify “significant” or “relevant” attempts to meet the resident’s needs.
New Section	§553.265 Respite Admissions	Request to change language to account for the short-term nature of respite stays.
New Section	§553.267 Medications	• Request to remove language calling for cost analysis of resident pharmacy fee • Request to add “known” for documentation of unusual reactions • Request to delete Section 553.273(c)
New Section	§553.275 Dietary Services	• Include language to allow for the equivalent of three meals a day
New Section	§553.283 RN	Amend language to say “if facility

	Delegation of Care Tasks	is aware that a guardianship is in place.”
New Section	§553.287 Rights	Recommend additional analysis of benefit eligibility language to align with timeline listed in 535.259 (a) (3) (B).
New Section	553.289 Access to Resident Care and Records by the State Long Term Care Ombudsman Program	Request to delete language allowing ombudsman interns to determine if immediate and unimpeded access to the name and contact information of the resident's legally authorized representative is needed to perform an ombudsman task.
New Section	§553.291. Postings	Request to reduce the added requirements for posting to maintain a more homelike environment
New Section	§553.292 Advertisements, Solicitations, and Promotional Material	Request to either remove provision or to remove “social media accounts” and “business cards”

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 553 LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES
SUBCHAPTER A INTRODUCTION

§553.3. Definitions.

The following words and terms, when used in this chapter, have the following meanings [meaning], unless the context clearly indicates otherwise.

(1) Abuse--

Has [~~(A) For a person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes, the term has the meaning in Texas Family Code §261.001(1), which is an intentional, knowing, or reckless act or omission by an employee, volunteer, or other individual working under the auspices of a facility or program that causes or may cause emotional harm or physical injury to, or the death of, a child served by the facility or program, as further described by rule or policy; and]~~

~~[(B) For a person other than one described in subparagraph (A) of this paragraph, the term has]~~ the meaning in Texas Health and Safety Code

§260A.001(1), which is:

(A) ~~[(i)]~~ the negligent or willful infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical or emotional harm or pain to a resident by the resident's caregiver, family member, or other individual who has an ongoing relationship with the resident; or

(B) ~~[(ii)]~~ sexual abuse of a resident, including any involuntary or nonconsensual sexual conduct that would constitute an offense under Texas Penal Code §21.08 (relating to Indecent Exposure), or Texas Penal Code, Chapter 22 (relating to Assaultive Offenses), committed by the resident's caregiver, family member, or other individual who has an ongoing relationship with the resident.

(2) Accreditation commission--Has the meaning given in Texas Health and Safety Code §247.032.

(3) Activities of daily living--Activities routinely performed in the normal course of a day, including bathing, dressing, grooming, routine hair and skin care, meal preparation, feeding, exercising, toileting, transfer/ambulation, positioning, assisting with range of motion, and assistance with self-administered medications. The term does not include health maintenance activities and tasks performed under RN delegation, which must be assessed in accordance with applicable Texas Board of Nursing rules at Texas Administrative Code (TAC), Title 22, Chapter 225 (relating to RN Delegation to Unlicensed Personnel and Tasks not Requiring Delegation in Independent Living Environments for Clients with Stable and Predictable Conditions).

(4) ~~[(3)]~~ Actual harm--A negative outcome that compromises a resident's physical, mental, or emotional well-being.

(5) ~~[(4)]~~ Advance directive--Has the meaning given in Texas Health and Safety Code §166.002.

(6) ~~[(5)]~~ Affiliate--With respect to:

(A) a corporation, each officer and director, each stockholder with a disclosable interest, and any subsidiary or parent company of the corporation;

(B) a limited liability company, each officer, member, manager, or parent company;

(C) an individual:

(i) the individual's spouse, if the individual is a sole proprietor;

(ii) each partnership and each partner thereof of which the individual or any affiliate of the individual is a partner; and

(iii) each corporation in which the individual is an officer or director or a stockholder with a disclosable interest in the corporation;

(D) a partnership, each partner in the partnership, including general and limited partners (regardless of the percent of direct or indirect ownership or controlling authority) and any parent company of the partnership;

(E) a trust, each trustee of the trust; and

(F) a group of co-owners under any other business arrangement, each officer, director, or the equivalent under the specific business arrangement and any parent company of the business.

~~[(A) a partnership, each partner thereof;]~~

~~[(B) a corporation, each officer, director, principal stockholder, subsidiary, or person with a disclosable interest, as the term is defined in this section; and]~~

~~[(C) a natural person:]~~

~~[(i) said person's spouse;]~~

~~[(ii) each partnership and each partner thereof, of which said person or any affiliate of said person is a partner; and]~~

~~[(iii) each corporation in which said person is an officer, director, principal stockholder, or person with a disclosable interest.]~~

(7) [(6)] Alzheimer's Assisted Living Disclosure Statement form--The HHSC-prescribed form a facility uses to describe the nature of care or treatment of residents with Alzheimer's disease and related disorders.

(8) [(7)] Alzheimer's disease and related disorders--Alzheimer's disease and any other irreversible dementia described by the Centers for Disease Control and Prevention (CDC), or in the most current edition of the Diagnostic and Statistical Manual of Mental Disorders.

(9) [(8)] Alzheimer's facility--A Type B facility that is certified to provide specialized services to residents with Alzheimer's disease or a related condition.

(10) [(9)] Applicant--A person applying for a license to operate an assisted living facility under Texas Health and Safety Code, Chapter 247.

(11) [(10)] Assisted Living Facility Memory Care Disclosure Statement form--The HHSC-prescribed form that a facility uses when the facility advertises, markets, or otherwise promotes that it provides memory care services to residents with Alzheimer's disease and related disorders.

(12) Assistive devices--Products or devices for residents that promote independence and increase quality of life, including devices that assist a resident to perform tasks or activities of daily living and devices that make ambulation and transfer easier and safer for the resident with or without assistance from staff.

(13) [(11)] Attendant--A facility employee who provides personal [direct] care to residents. Attendants are not precluded from performing other tasks as assigned

to assist with services in the facility. ~~[This employee may serve other functions, including cook, janitor, porter, maid, laundry worker, security personnel, bookkeeper, activity director, and manager.]~~

(14) ~~[(12)]~~ Authorized electronic monitoring (AEM)--Placement ~~[The placement of an electronic monitoring device in a resident's room]~~ and use of an electronic monitoring ~~[using the]~~ device to make audio and video ~~[tapes or]~~ recordings after fulfilling requirements ~~[making a request to the facility]~~ to allow electronic monitoring.

(15) Bedfast--Refers to a resident who, because of an infirmity, requires a stretcher, bed or similar device for evacuation.

(16) ~~[(13)]~~ Behavioral emergency--Has the meaning given in §553.279 of this chapter (relating to Restraints and Seclusion) ~~[§553.261(g)(2) of this chapter (relating to Coordination of Care)]~~.

(17) Capacity--The number of residents for which a facility is licensed to provide services, regardless of census.

(18) ~~[(14)]~~ Certified ombudsman--Has the meaning given in §88.2 of this title (relating to Definitions).

(19) ~~[(15)]~~ CFR--Code of Federal Regulations.

(20) ~~[(16)]~~ Change of ownership--An event that results in a change to the federal taxpayer identification number of the license holder of a facility. The substitution of a personal representative for a deceased license holder is not a change of ownership.

~~[(17) Commingles--The laundering of apparel or linens of two or more individuals together.]~~

(21) ~~[(18)]~~ Controlling person--~~[A person with the ability, acting alone or with others, to directly or indirectly influence, direct, or cause the direction of the management, expenditure of money, or policies of a facility or other person. A controlling person includes:]~~

(A) A person is a controlling person if the person, acting alone or with others, can directly or indirectly influence, direct, or cause the direction of the management, expenditure of money, or policies of an assisted living facility or other person.

(B) For purposes of this chapter, "controlling person" includes:

(i) a management company, landlord, or other business entity that operates or contracts with others for the operation of an assisted living facility;

(ii) a person who is a controlling person of a management company or other business entity that operates an assisted living facility or that contracts with another person for the operation of an assisted living facility; and

(iii) any other individual who, because of a personal, familial, or other relationship with the owner, manager, landlord, tenant, or provider of an assisted living facility, is in a position of actual control or authority with respect to the facility, without regard to whether the individual is formally named as an owner, manager, director, officer, provider, consultant, contractor, or employee of the facility.

(C) Notwithstanding any other provision of this section, for purposes of this chapter, a controlling person of an assisted living facility or of a management company or other business entity described in subparagraph (B)(i) of this paragraph that is a publicly traded corporation or is controlled by a publicly traded corporation means an officer or director of the corporation. The term does not include a shareholder or lender of the publicly traded corporation.

(D) A controlling person described by paragraph (B)(iii) of this definition does not include an employee, lender, secured creditor, landlord, or other person who does not exercise formal or actual influence or control over the operation of an assisted living facility.

~~[(A) a management company, landlord, or other business entity that operates or contracts with others for the operation of a facility;]~~

~~[(B) any person who is a controlling person of a management company or other business entity that operates a facility or that contracts with another person for the operation of an assisted living facility;]~~

~~[(C) an officer or director of a publicly traded corporation that is, or that controls, a facility, management company, or other business entity described in subparagraph (A) of this paragraph but does not include a shareholder or lender of the publicly traded corporation; and]~~

~~[(D) any other individual who, because of a personal, familial, or other relationship with the owner, manager, landlord, tenant, or provider of a facility, is in a position of actual control or authority with respect to the facility, without regard to whether the individual is formally named as an owner, manager, director, officer, provider, consultant, contractor, or employee of the facility, except an employee, lender, secured creditor, landlord, or other person who does not exercise formal or actual influence or control over the operation of a facility.]~~

(22) ~~[(19)]~~ Covert electronic monitoring--The placement and use of an electronic monitoring device that is not open and obvious, and about which the facility and HHSC have not been informed by the resident, by the person who placed the device in the room, or by a person who uses the device.

(23) ~~[(20)]~~ Delegation--In the assisted living facility context, written authorization by a registered nurse (RN) acting on behalf of the facility for an attendant ~~[personal care staff]~~ to perform a task ~~[tasks]~~ of nursing care in a selected situation, in which ~~[situations, where]~~ delegation criteria are met for the task, in accordance with Texas Board of Nursing rules at 22 TAC Chapter 225 (relating to RN Delegation to Unlicensed Personnel and Tasks not Requiring

Delegation in Independent Living Environments for Clients with Stable and Predictable Conditions). ~~[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.]~~

(24) ~~[(21)]~~ Dietitian--A person who currently holds a license or provisional license issued by the Texas Department of Licensing and Regulation.

(25) ~~[(22)]~~ Direct ownership interest--Ownership of equity in the capital, stock, or profits of, or a membership interest in, an applicant or license holder.

(26) ~~[(23)]~~ Disclosable interest--Five percent or more direct or indirect ownership interest in an applicant or license holder.

(27) ~~[(24)]~~ Disclosure statement--An HHSC form for prospective residents or their legally authorized representatives that a facility must complete. The form contains information regarding the facility's preadmission, admission, and discharge processes ~~[process]~~; resident evaluation ~~[assessment]~~ and service plans; staffing patterns; the physical environment of the facility; resident activities; and facility services.

(28) Durable medical equipment--Items that are ordered by a health care provider for everyday or extended use during treatment and recovery from an injury or illness or due to age related problems.

(29) ~~[(25)]~~ Electronic monitoring device--Video surveillance cameras and audio devices installed in a resident's room and ~~[7.]~~ designed to capture images and record ~~[acquire]~~ communications or other sounds that occur in the room. An electronic, mechanical, or other device used specifically for the nonconsensual interception of wire or electronic communication is excluded from this definition.

(30) ~~[(26)]~~ Exploitation--Has

~~[(A) For a person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes, the term has the meaning in Texas Family Code §261.001(3), which is the illegal or improper use of a child or of the resources of a child for monetary or personal benefit, profit, or gain by an employee, volunteer, or other individual working under the auspices of a facility or program as further described by rule or policy; and]~~

~~[(B) For a person other than one described in subparagraph (A) of this paragraph, the term has]~~ the meaning in Texas Health and Safety Code §260A.001(4), which is the illegal or improper act or process of a caregiver, family member, or other individual who has an ongoing relationship with the resident using the resources of a resident for monetary or personal benefit, profit, or gain without the informed consent of the resident.

(31) ~~[(27)]~~ Facility--An entity required to be licensed under the Assisted Living

Facility Licensing Act, Texas Health and Safety Code, Chapter 247.

(32) ~~[(28)]~~ Fire suppression authority--The paid or volunteer fire-fighting organization or tactical unit that is responsible for fire suppression operations and related duties once a fire incident occurs within its jurisdiction.

~~[(29) Flame spread--The rate of fire travel along the surface of a material. This is different than other requirements for time-rated "burn through" resistance ratings, such as one-hour rated. Flame spread ratings are Class A (0-25), Class B (26-75), and Class C (76-200).]~~

(33) ~~[(30)]~~ Functional disability--A mental, cognitive, or physical disability that precludes the physical performance of self-care tasks, including health maintenance activities and personal care.

(34) ~~[(31)]~~ Governmental unit--The state or any county, municipality, or other political subdivision, or any department, division, board, or other agency of any of the foregoing.

(35) ~~[(32)]~~ Health care professional--An individual who holds a current license or certification, [licensed, certified,] or is otherwise legally authorized to administer health care, for profit or otherwise, in the ordinary course of business or professional practice. [The term includes a physician, registered nurse, licensed vocational nurse, licensed dietitian, physical therapist, and occupational therapist.]

(A) The term includes individuals such as physicians, registered nurses, licensed vocational nurses, licensed dietitians, physical therapists, and occupational therapists.

(B) A health care professional may be employed by the facility, be employed by or contracted with an outside entity such as a home and community support services agency, or be an independent contractor.

(36) ~~[(33)]~~ Health maintenance activity (HMA)--Consistent with the definition in the Texas Board of Nursing rules for RN Delegation at 22 TAC §225.4 (relating to Definitions), a task that:

(A) requires a higher level of skill to perform than activities of daily living; ~~[may be exempt from delegation based on an RN's assessment in accordance with] [§553.263(c) of this chapter (relating to Health Maintenance Activities); and]~~

(B) is exempt from delegation based on an RN's assessment in accordance with Texas Board of Nursing rules at 22 TAC Chapter 225; and [requires a higher level of skill to perform than personal care services and, in the context of an ALF, excludes the following tasks:]

(C) in the context of an assisted living facility, excludes:

(i) intermittent catheterization; and

(ii) subcutaneous, nasal, or insulin pump administration of insulin or other

injectable medications prescribed in the treatment of diabetes mellitus.

(37) ~~[(34)]~~ HHSC--The Texas Health and Human Services Commission.

(38) ~~[(35)]~~ Immediate threat to the health or safety of a resident--A situation that causes, or is likely to cause, serious injury, harm, or impairment to or the death of a resident.

(39) ~~[(36)]~~ Immediately available--The capacity of facility staff to immediately respond to an emergency after being notified through a communication or alarm system. Staff ~~[The staff]~~ are to be no more than 600 feet from the farthest resident and in the facility while on duty.

(40) ~~[(37)]~~ Indirect ownership interest--Any ownership or membership interest in a person that has a direct ownership interest in an applicant or license holder.

(41) ~~[(38)]~~ Isolated--A situation in which a very limited number of residents are affected~~[,]~~ and a very limited number of staff are involved, or a[the] situation that has occurred only occasionally.

(42) ~~[(39)]~~ Key infectious agents--Bacteria, viruses, and other microorganisms that ~~[which]~~ cause the most common infections and infectious diseases in long-term care facilities, and that can be mitigated by establishing, implementing, maintaining, and enforcing proper infection, prevention, and control policies and procedures.

(43)~~[(40)]~~ Large facility--A facility licensed for 17 or more residents.

(44)~~[(41)]~~ Legally authorized representative--A person authorized by law to act on behalf of a person with regard to a matter described in this chapter, which ~~[and]~~ may include a parent, guardian, spouse, sibling, ~~[or managing conservator of a minor,]~~ or a resident's legal ~~[the]~~ guardian or agent under a power of attorney ~~[of an adult].~~

(45)~~[(42)]~~ License holder--A person that holds a license to operate a facility.

~~[(43)] Listed--Equipment, materials, or services included in a list published by an organization concerned with evaluation of products or services, that maintains periodic inspection of production of listed equipment or materials or periodic evaluation of services, and whose listing states that either the equipment, material, or service meets appropriate designated standards or has been tested and found suitable for a specified purpose. The listing organization must be acceptable to the authority having jurisdiction, including HHSC or any other state, federal, or local authority.]~~

~~[(44)] Local code--A model building code adopted by the local building authority where the facility is constructed or located.]~~

(46) ~~[(45)]~~ Management services--Services provided under contract between the owner of a facility and a person to provide for the operation of the ~~[a]~~ facility, including administration, staffing, maintenance, or delivery of resident services.

Management services do not include contracts solely for maintenance, laundry, transportation, or food services.

(47) ~~[(46)]~~ Manager--The individual in charge of the day-to-day operation of the facility.

(48) ~~[(47)]~~ Managing local ombudsman--Has the meaning given in §88.2 of this title.

(49) ~~[(48)]~~ Medication--

(A) Medication is any substance:

(i) recognized as a drug in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, Texas Drug Code Index or official National Formulary, or any supplement to any of these official documents;

(ii) intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease;

(iii) other than food intended to affect the structure or any function of the body; and

(iv) intended for use as a component of any substance specified in this definition.

(B) Medication includes both prescription and over-the-counter medication, unless otherwise specified.

(C) Medication does not include devices or their components, parts, or accessories.

(50) ~~[(49)]~~ Medication administration--The direct application of a medication or drug to the body of a resident by an individual legally allowed to administer medication in the state of Texas.

(51) ~~[(50)]~~ Medication assistance or supervision-- The assistance or supervision of the medication regimen by facility staff. Refer to §553.267(c) ~~[(§553.261(a))]~~ of this chapter (relating to Rights).

(52) ~~[(51)]~~ Medication self-administration--A resident's self-administration of ~~[(self or self administration of) The capability of a resident to administer]~~ the resident's own medication or treatments without assistance from the facility staff.

(53) ~~[(52)]~~ Memory care services--Services provided by an assisted living facility that include enhanced safety measures and that are tailored to meet the needs of residents with a memory impairment or a diagnosis of dementia.

(54) ~~[(53)]~~ Multidrug-resistant organisms--Bacteria and other microorganisms that have developed resistance to multiple types of medicine used to act against the microorganism.

(55) [(54)] Neglect--Has

~~[(A) For a person under 18 years of age who is not and has not been married or who has not had the disabilities of minority removed for general purposes, the term has the meaning in Texas Family Code §261.001(4), which is a negligent act or omission by an employee, volunteer, or other individual working under the auspices of a facility or program, including failure to comply with an individual treatment plan, plan of care, or individualized service plan, that causes or may cause substantial emotional harm or physical injury to, or the death of, a child served by the facility or program as further described by rule or policy; and]~~

~~[(B) For a person other than one described in subparagraph (A) of this paragraph, the term has]~~ the meaning in Texas Health and Safety Code §260A.001(6), which is the failure to provide for one's self the goods or services, including medical services, which are necessary to avoid physical or emotional harm or pain or the failure of a caregiver to provide such goods or services.

~~[(55) NFPA 101--The 2012 publication titled *NFPA 101 Life Safety Code* published by the National Fire Protection Association, Inc., 1 Batterymarch Park, Quincy, Massachusetts 02169.]~~

(56) Ombudsman intern--Has the meaning given in §88.2 of this title.

(57) Ombudsman program--Has the meaning given in §88.2 of this title.

(58) Online portal--A secure portal provided on the HHSC website for licensure activities, including for an assisted living facility applicant to submit licensure applications and information.

(59) Outside resources--Services and support applicable to the needs of a resident that cannot be provided by the facility, or that the resident declines provision of by the facility, and that are necessary to allow the resident to maintain the highest practicable level of independence and quality of life. Outside service providers include:

(A) an employee of a home and community support services agency in accordance with Texas Health and Safety Code, Chapter 142;

(B) a health care professional, as defined in this section;

(C) mental health and cognitive service support; and

(D) companion services.

(60) [(59)] Pattern of violation--Repeated, but not pervasive [widespread in scope], failures of a facility to comply with this chapter or a rule, standard, or order adopted under Texas Health and Safety Code, Chapter 247 that:

(A) result in a violation; and

(B) are found throughout the services provided by the facility or that affect

or involve the same residents or facility employees.

(61) ~~[(60)]~~ Person--Any individual, firm, partnership, corporation, association, or joint stock association, and the legal successor thereof.

(62) ~~[(61)]~~ Personal care services--Assistance with activities of daily living, as defined in this section, and general supervision or oversight of the physical and mental well-being of residents in the facility [feeding, dressing, moving, bathing, or other personal needs or maintenance; or general supervision or oversight of the physical and mental well-being of a person who needs assistance to maintain a private and independent residence in the facility or who needs assistance to manage his or her personal life, regardless of whether a guardian has been appointed for the person].

~~[(62) Personal care staff--An attendant whose primary employment function is to provide personal care services.]~~

(63) Physician--A practitioner licensed by the Texas Medical Board.

(64) Plan of removal--A plan that identifies all actions an assisted living facility will take to immediately address noncompliance that has resulted in or caused serious injury, serious harm, serious impairment, or death by detailing how the facility will keep residents safe and free from serious harm or death caused by the noncompliance.

(65) ~~[(64)]~~ Potential for minimal harm--A violation that has the potential for causing no more than a minor negative impact on a resident.

(66) ~~[(65)]~~ Practitioner--An individual who is currently licensed in a state in which the individual practices as a physician, dentist, podiatrist, or physician's [a-physician] assistant; or a registered nurse approved by the Texas Board of Nursing to practice as an advanced practice registered nurse.

(67) ~~[(66)]~~ Private and unimpeded access--Access to enter a facility or communicate with a resident outside of the hearing and view of others, without interference or obstruction from facility employees, volunteers, or contractors.

~~[(67) Qualified medical personnel--An individual who is licensed, certified, or otherwise authorized to administer health care. The term includes a physician, registered nurse, and licensed vocational nurse.]~~

(68) Rapid influenza diagnostic test--A test administered to a person with flu-like symptoms that can detect the influenza viral nucleoprotein antigen.

(69) Resident--An individual accepted for care in a facility.

(70) Resident evaluation--The assessment of a resident to determine the care required, in accordance with Texas Health and Safety Code §247.002.

(71) ~~[(70)]~~ Respite--The provision by a facility of room, board, and care at the level ordinarily provided for permanent residents of the facility to a person for not

more than 60 days for each stay in the facility.

(72) ~~(71)~~ Restraint hold--

(A) A manual method, except for physical guidance or prompting of brief duration, used to restrict:

(i) free movement or normal functioning of all or a portion of a resident's body; or

(ii) normal access by a resident to a portion of the resident's body.

(B) Physical guidance or prompting of brief duration becomes a restraint if the resident resists the guidance or prompting.

(73) ~~(72)~~ Restraints--

(A) Chemical restraints are psychoactive drugs administered for the purposes of discipline or convenience and ~~[are]~~not required to treat the resident's medical symptoms.

(B) Physical restraints are any manual method^[7] or physical or mechanical device, material, or equipment that immobilizes or reduces the ability of a resident to move his or her arms, legs, body, or head freely ~~[attached or adjacent to the resident that restricts freedom of movement]~~. Physical restraints include restraint holds. This definition does not apply to wheelchairs, seating systems, or secondary supports when used to provide postural support, stability, pressure distribution, and pressure relief.

(74) ~~(73)~~ RN (registered nurse)--A person who holds a current and active license from the Texas Board of Nursing to practice professional nursing, as defined in Texas Occupations Code §301.002(2).

~~[(74) Safety--Protection from injury or loss of life due to such conditions as fire, electrical hazard, unsafe building or site conditions, and the hazardous presence of toxic fumes and materials.]~~

(75) Seclusion--The involuntary confinement of a resident alone in a room or area that the resident is physically prevented from leaving ~~[separation of a resident from other residents and the placement of the resident alone in an area from which the resident is prevented from leaving]~~.

(76) Service plan--A written description of the medical care, supervision, or nonmedical care needed by a resident.

~~[(77) Short-term acute episode--An illness of less than 30 days' duration.]~~

(77) Significant change--A sudden or major shift in the physical or behavioral status of a resident that is inconsistent with the resident's condition when admitted or last assessed, such as unplanned weight change, stroke, heart condition, hospice election, the development of a pressure sore, or the worsening of an existing

pressure sore. Ordinary day-to-day fluctuations in a resident's functioning and behavior, short-term illnesses such as colds, or the gradual deterioration in a resident's ability to conduct activities of daily living that accompanies the aging process are not considered significant changes.

(78) Skilled nursing--Tasks that may only be provided by a licensed nurse and require clinical reasoning, nursing judgment, or critical decision making.

(79) [(78)] Small facility--A facility licensed for 16 or fewer residents.

(80) [(79)] Stable and predictable--A phrase describing the clinical and behavioral status of a resident that is non-fluctuating and consistent and does not require the regular presence of a registered or licensed vocational nurse.

[(A) The phrase does not include within its meaning a description of the clinical and behavioral status of a resident that is expected to change rapidly or needs continuous or continual nursing assessment and evaluation.]

[(B) The phrase does include within its meaning a description of the condition of a resident receiving hospice care within a facility where deterioration is predictable.]

(81) [(80)] Staff--Employees of an assisted living facility.

(82) [(81)] Standards--The minimum conditions, requirements, and criteria established in this chapter with which a facility must comply to be licensed under this chapter.

(83) [(82)] State Ombudsman--Has the meaning given in §88.2 of this title (relating to Definitions).

(84) [(83)] Terminal condition--A medical diagnosis, certified by a physician, of an illness that will likely result in death in six months or less.

(85) [(84)] Universal precautions--An approach to infection control in which blood, any body fluids visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids are treated as if known to be infectious for HIV, hepatitis B, and other blood-borne pathogens.

(86) [(85)] Vaccine Preventable Diseases--The diseases included in the most current recommendations of the Advisory Committee on Immunization Practices of the CDC.

(87) [(86)] Widespread in scope--A violation of Texas Health and Safety Code, Chapter 247, or a rule, standard, or order adopted under Chapter 247 that:

(A) is pervasive throughout the services provided by the facility; or

(B) represents a systemic failure by the facility that affects or has the potential to affect a large portion of or all of the residents of the facility.

(88) [(87)] Willfully interfere--To act or not act to intentionally prevent, interfere with, impede [impeded], or to attempt to intentionally prevent, interfere with, or impede.

(89) [(88)] Working day--Any 24-hour period, Monday through Friday, excluding state and federal holidays.

§553.5. Types of Assisted Living Facilities.

(a) Basis for licensure type. A facility must be licensed as a Type A or Type B facility. A facility's licensure type is based on the capability of the residents to evacuate the facility, as described in this section.

(b) Type A. In a Type A facility, a resident:

(1) must be physically and mentally capable of evacuating the facility without physical assistance from staff, which may include an individual who is mobile, although non-ambulatory, such as an individual who uses a wheelchair or an electric cart, and has the capacity to transfer and evacuate himself or herself in an emergency;

(2) does not require routine attendance during nighttime sleeping hours;

(3) must be capable of following directions under emergency conditions; and

(4) must be able to demonstrate [to HHSC] that he or she [they] can travel from his or her own living unit to a centralized space, such as a lobby, living room, or dining room on the level of discharge, within a 13-minute period without continuous staff assistance and without using an elevator [meet the evacuation requirements described in Subchapter D of this chapter (relating to Facility Construction)].

(c) Type B. In a Type B facility, a resident may:

(1) require staff assistance to evacuate;

(2) require attendance during nighttime sleeping hours;

(3) be incapable of following directions under emergency conditions; and

(4) require assistance in transferring to and from a wheelchair; but

(5) must not be permanently bedfast.

(d) Type C.

(1) A Type C facility is a four-bed facility that was originally licensed by HHSC to provide adult foster care services as described in 40 Texas Administrative Code (TAC) [TAC] Chapter 48, Subchapter K (relating to Minimum Standards for Adult Foster Care).

(2) HHSC no longer issues Type C licenses and Type C licensure is no longer a

requirement to contract with HHSC to provide adult foster care services. In accordance with 40 TAC Chapter 48, Subchapter K, in order to contract with HHSC as a provider of adult foster care services, an applicant must have a current license for a Type A or Type B assisted living facility.

§553.7. Assisted Living Facility Services.

(a) An assisted living facility is an entity that ~~[must]~~:

(1) furnishes ~~[furnish]~~, in one or more facilities, food and shelter to four or more persons who are unrelated to the proprietor ~~[of the establishment]~~; and

(2) provides ~~[provide]~~:

(A) personal care services; or

(B) medication administration by a person licensed or otherwise authorized in this state to administer the medication.

(b) An assisted living facility ~~[establishment]~~ may provide:

(1) assistance with or supervision of medication administration;

(2) health maintenance activities in accordance with §553.281 ~~[\$553.263]~~ of this chapter (relating to Health Maintenance Activities); and

(3) skilled nursing services for the following limited purposes:

(A) coordination of ~~[coordinate]~~ resident care with an outside home and community support services agency or other health care professional;

(B) provision or delegation of personal care services and medication administration, as described in this chapter;

(C) evaluation ~~[assessment]~~ of residents to determine the care required; and

(D) temporary delivery, for a period not to exceed 30 days, of ~~[temporary]~~ skilled nursing services for a minor illness, injury, or emergency.

(c) A facility may choose to provide services only to residents with specific healthcare conditions and diagnoses, such as brain injury, in accordance with this section and Texas Health and Safety Code, Chapter 247.

(d) As part of the facility's general supervision and oversight of the physical and mental well-being of its residents, the facility remains responsible for all care provided by the facility.

§553.9. General Characteristics of a Resident.

(a) A resident must be 18 years of age or older or an emancipated minor.

(b) [This section describes some general characteristics of a resident in a facility.] A resident may:

(1) exhibit symptoms of cognitive [mental] or emotional distress [disturbance], but must [is] not be considered at risk of imminent harm to self or others;

(2) require [need] assistance with activities of daily living as defined in §553.3 of this chapter (relating to Definitions) [movement];

(3) be incontinent without pressure sores [require assistance with bathing, dressing, and grooming];

(4) require toileting assistance, such as reminders to encourage routine toileting to prevent incontinence [require assistance with routine skin care, such as application of lotions or treatment of minor cuts and burns];

(5) have a variety of healthcare conditions and diagnoses that could require short-term or ongoing additional care, not provided by the facility, from outside resources, as defined in §553.3 of this chapter [need reminders to encourage toilet routine and prevent incontinence];

~~[(6) require temporary services by professional personnel;]~~

(6) ~~[(7)]~~ manage his or her own medication regimen and storage, or may require [need] assistance with a medication regimen [supervision of self-medication], or may require medication administration or medication storage by facility staff;

(7) ~~[(8)]~~ require encouragement to participate in activities such as eating, hygiene, socializing, and attending appointments [eat, or monitoring due to social or psychological reasons of temporary illness];

(8) require monitoring due to social or psychological reasons of temporary illness, such as sadness, depression, or apathy;

(9) be hearing, [impaired or] speech, or vision impaired;

~~[(10) be incontinent without pressure sores;]~~

(10) ~~[(11)]~~ require an established therapeutic diet;

(11) ~~[(12)]~~ use various assistive [require self-help] devices, as defined in §553.3 of this chapter, that increase independence, such as a Geri chair, lap tray, lift chair, low vision aid, wheelchair, scooter, or walker; [and]

(12) ~~[(13)]~~ require [need] assistance with meals, which may include feeding; and[-]

(13) have a permanently placed percutaneous endoscopic gastrostomy (PEG) tube for feeding and medication administration, which requires RN delegation or RN designation as a health maintenance activity, as described in this chapter.

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 553 LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES
SUBCHAPTER B LICENSING

(a. Criteria for Licensing.

(a) A person must obtain a license issued by HHSC ~~[be licensed]~~ to establish or operate an assisted living facility in Texas.

(1) HHSC considers one or more facilities to be part of the same establishment and, therefore, subject to licensure as an assisted living facility, based on the following factors:

(A) common ownership;

(B) physical proximity;

(C) shared services, personnel, or equipment in any part of the facilities' operations; and

(D) any public appearance of joint operations or of a relationship between the facilities.

(2) The presence or absence of any one factor in paragraph (1) of this subsection does not determine whether one or more facilities are part of the same establishment or whether the facilities need to be licensed ~~[is not conclusive]~~.

(3) A facility's licensed capacity is based on the total capacity for residents within the entire assisted living establishment that is combined under a single license. If multiple licenses are obtained, the licensed capacity is determined per license.

(b) To obtain a license, a person must follow the application requirements in this subchapter and meet the criteria for a license.

(c) An applicant must affirmatively show that:

(1) the applicant, license holder, controlling person, and any person required to submit background and qualification information meet the criteria and eligibility for licensing, in accordance with this section; ~~;~~^[7] and^[÷]

(2) ~~[(1)]~~ the building in which the facility is housed:

(A) meets local fire ordinances;

(B) is approved by the local fire authority;

(C) meets HHSC licensing standards in accordance with Subchapter D of this chapter (relating to Facility Construction) based on an onsite ~~[on-site]~~ inspection by HHSC; and

(D) if located in a county of more than 3.3 million residents for initial license

applications submitted or issued on or after December 6, 2022, is not located in a 100-year floodplain.~~[; and]~~

(3) ~~[(2)]~~ Operation ~~[operation]~~ of the facility must meet one of the following:
~~[meets]~~

(A) HHSC licensing standards based on an onsite ~~[on-site]~~ health inspection by HHSC, which must include observation of the care of a resident; or

(B) ~~[(3) the facility meets]~~ the standards for accreditation based on an onsite ~~[on-site]~~ accreditation survey by the accreditation commission.

(d) An applicant who chooses the option authorized in paragraph (c)(3)(B) of this subsection ~~[(c)(3) of this section]~~ must contact HHSC to determine which accreditation commissions are available to meet HHSC licensure ~~[the]~~ requirements. ~~[of that subsection.]~~ If a license holder uses an onsite ~~[on-site]~~ accreditation survey by an accreditation commission, as provided in this section ~~[subsection]~~ and §553.33(h) ~~[\$553.33(i)]~~ of this subchapter (relating to Renewal Procedures and Qualifications), the license holder must:

(1) provide written notification to HHSC by submitting an updated application in the licensing system within five working days after the license holder receives a notice of change in accreditation status from the accreditation commission; and

(2) include a copy of the notice of change with its written notification to HHSC.

(e) HHSC issues a license to a facility meeting all requirements of this chapter. The facility must not exceed the maximum allowable number of residents specified on the license.

(f) HHSC denies an application for an initial license or a renewal of a license if:

(1) the applicant, license holder, controlling person, or any person required to be disclosed on the application for licensure has been debarred or excluded from the Medicare or Medicaid programs by the federal government or a state;

(2) a court has issued an injunction prohibiting the applicant, license holder, controlling person, or any person required to be disclosed on the application for licensure from operating a facility; or

(3) during the five years preceding the date of the application, a license to operate a health care facility, long-term care facility, assisted living facility, or similar facility in any state held by the applicant, license holder, controlling person, or any person required to be disclosed on the application for licensure has been revoked.

(g) A license holder or controlling person who operates a nursing facility or an assisted living facility for which a trustee was appointed and for which emergency assistance funds, other than funds to pay the expenses of the trustee, were used is subject to exclusion from eligibility for:

(1) the issuance of an initial license for a facility for which the person has not previously held a license; and

(2) the renewal of the license of the facility for which the trustee was appointed.

(h) HHSC may deny an application for an initial license or refuse to renew a license if an applicant, license holder, controlling person, or any person ~~[required to be]~~ disclosed on the application for licensure:

(1) violates Texas Health and Safety Code, Chapter 247; a section, standard or order adopted under Chapter 247; or a license issued under Chapter 247 in either a repeated or substantial manner;

(2) commits an act described in §553.751 ~~[(a)(2) — (9)]~~ of this chapter (relating to Administrative Penalties);

(3) aids, abets, or permits a substantial violation described in paragraph (1) or (2) of this subsection about which the person had or should have had knowledge;

(4) fails to provide the required information, facts, or references;

(5) engages in the following:

(A) knowingly submits false or intentionally misleading statements to HHSC;

(B) uses subterfuge or other evasive means of filing an application for licensure;

(C) engages in subterfuge or other evasive means of filing on behalf of another who is unqualified for licensure;

(D) knowingly conceals a material fact related to licensure; or

(E) is responsible for fraud;

(6) fails to pay the following fees, taxes, and assessments when due:

(A) license fees, as described in §553.47 of this subchapter (relating to License Fees); or

(B) franchise taxes, if applicable;

(7) during the five years preceding the date of the application, has a history in any state or other jurisdiction of any of the following:

(A) operation of a facility that has been decertified or has had its contract canceled under the Medicare or Medicaid program;

(B) federal or state long-term care facility, assisted living facility, or similar facility sanctions or penalties, including monetary penalties, involuntary downgrading of the status of a facility license, proposals to decertify, directed plans of correction, or the denial of payment for new Medicaid admissions;

(C) unsatisfied final judgments, excluding judgments wholly unrelated to the provision of care rendered in long-term care facilities;

(D) eviction involving any property or space used as a facility; or

(E) suspension of a license to operate a health care facility, long-term care facility, assisted living facility, or a similar facility;

(8) violates Texas Health and Safety Code §247.021 by operating a facility without a license;~~or~~

(9) is subject to denial or refusal as described in Chapter 560 of this title (relating to Denial or Refusal of License) during the time frames described in that chapter;~~or~~

(10) chooses to surrender the license in lieu of enforcement action.

(i) Without limitation, HHSC reviews all information provided by an applicant, a license holder, a person required to be disclosed on the application for licensure, or a manager when considering grounds for denial of an initial license application or a renewal application in accordance with subsection (h) of this section. HHSC may grant a license if HHSC finds the applicant, license holder, person required to be disclosed on the application for licensure, affiliate, or manager is able to comply with the rules in this chapter.

(j) HHSC reviews final actions when considering the grounds for denial of an initial license application or renewal application in accordance with subsections (f) and (h) of this section. An action is final when routine administrative and judicial remedies are exhausted. An applicant must disclose all actions, whether pending or final.

(k) If an applicant owns multiple facilities, HHSC examines the overall record of compliance in all of the applicant's facilities. An overall record poor enough to deny issuance of a new license does not preclude the renewal of a license of a facility with a satisfactory record.

§553.21. Time Periods for Processing All Types of License Applications.

(a) HHSC reviews an application for a license within 30 days after the date HHSC Licensing and Credentialing Section, Long-term Care Regulation, receives the application and the associated payment of fees and notifies the applicant if additional information is needed to complete the application.

(b) HHSC denies an application that remains incomplete 120 days after the date that HHSC Licensing and Credentialing Section, Long-term Care Regulation receives the application and the associated payment of fees.

(c) HHSC issues a license within 30 days after HHSC determines that the applicant and the facility have met all licensure requirements referenced in §553.23 of this subchapter (relating to Initial License Application Procedures and Requirements) or §553.33 of this subchapter (relating to Renewal Procedures and Qualifications), as applicable.

(d) If HHSC does not process an application in the time period stated, the applicant has a right to make a request to the program director for reimbursement of the license fees paid with the application.

(1) If the program director does not agree that the established time period has been violated or finds that good cause existed for exceeding the established time period, the program director denies the request.

(2) Good cause for exceeding the established time period exists if:

(A) the number of applications to be processed exceeds by 15 percent or more the number processed in the same calendar quarter of the preceding year;

(B) HHSC must rely on another public or private entity to process all or a part of the application received by HHSC, and the delay is caused by that entity; or

(C) other conditions existed giving good cause for exceeding the established time period.

(3) If the request for reimbursement is denied, the applicant may appeal to the HHSC Executive Commissioner for resolution of the dispute. The applicant must send a written statement to the HHSC Executive Commissioner describing the request for reimbursement and the reason for the request. The HHSC Executive Commissioner will make a timely decision concerning the appeal and notify the applicant in writing of the decision.

§553.23. Initial License Application Procedures and Requirements.

(a) An applicant must complete the HHSC pre-licensure training course before submitting an application for an initial license. An applicant that is currently licensed under Texas Health and Safety Code, Chapter 247, is exempt from this requirement.

(b) An applicant for an initial license must submit an application in accordance with §553.19 of this subchapter (relating to General Application Requirements) and include full payment of the fees required in §553.47 of this subchapter (relating to License Fees).

(c) HHSC reviews an application for an initial license within 30 days after the date HHSC Licensing and Credentialing Section, Long-term Care Regulation receives the application and associated fees and notifies the applicant if additional information is needed to complete the application.

(d) The applicant must notify HHSC via the online portal indicating that the facility is ready for a life safety code [~~Life Safety Code~~] (LSC) inspection. The notice must be submitted with the application or within 120 days after the HHSC Licensing and Credentialing Section, Long-term Care Regulation receives the application and associated fees. After the applicant has satisfied the application submission requirements in §553.17 of this subchapter (relating to Criteria for Licensing) and §553.19 of this subchapter, HHSC staff conduct an onsite [~~on-site~~] LSC inspection of the facility to determine if the facility meets the applicable [~~NFPA 101 and other~~]

physical plant requirements in Subchapter D of this chapter (relating to Facility Construction).

(e) If the facility fails to meet the licensure requirements within 120 days after the initial LSC inspection, HHSC denies the application for a license.

(f) After a facility has met the licensure requirements in Subchapter D of this chapter and has admitted at least one but no more than three residents, the applicant must notify HHSC via the online portal that the facility is ready for a health inspection.

(1) HHSC staff conduct an onsite [~~on-site~~] health inspection to determine if the facility meets the licensure requirements for standards of operation and resident care in Subchapter E of this chapter (relating to Standards for Licensure).

(2) If the facility fails to meet the licensure requirements for standards of operation and resident care within 120 days after the initial health inspection, HHSC denies the application for a license.

(g) HHSC issues a license within 30 days after HHSC determines that the applicant and the facility have met the licensure requirements of this section. The issuance of a license constitutes HHSC's official written notice to the facility of the approval of the application.

(h) HHSC may deny an application for an initial license if the applicant, controlling person, or any person required to submit background and qualification information fails to meet the criteria for a license established in §553.17 of this subchapter.

(i) If HHSC denies an application for an initial license, HHSC sends the applicant a written notice of the denial and informs the applicant of the applicant's right to request an administrative hearing to appeal the denial. The administrative hearing is held in accordance with Texas Health and Human Services Commission rules at Texas Administrative Code, Title 1, Part 15, Chapter 357, Subchapter I (relating to Hearings Under the Administrative Procedure Act).

§553.25. Initial License for a Type A or Type B Facility for an Applicant in Good Standing.

(a) An applicant may request that HHSC issue, before conducting an onsite [~~on-site~~] health inspection, an initial license for a Type A or Type B facility. The applicant must request the license by submitting a form prescribed by HHSC via the online portal.

(b) If an applicant makes a request in accordance with subsection (a) of this section, HHSC determines the applicant is in good standing, and the applicant complies with subsection (d) of this section, the applicant is not required to admit a resident to the facility or have the onsite [~~on-site~~] health inspection described in §553.23(f) of this subchapter (relating to Initial License Application Procedures and Requirements) before HHSC issues an initial license.

(c) For purposes of this section, an applicant is in good standing if:

(1) a condition in this paragraph [~~one of the following conditions~~] is met:

(A) the applicant has operated or been a controlling person of a licensed Type A or Type B facility in Texas for at least six consecutive years; or

(B) the applicant has not held a license for a Type A or Type B facility, but a controlling person of the applicant has operated or been a controlling person of a licensed Type A or Type B facility in Texas for at least six consecutive years; and

(2) each licensed facility operated by the applicant or the controlling person described in paragraph (1)(A) or (B) of this subsection:

(A) has not had a violation of a licensing rule:

(i) that:

(I) resulted in actual harm to a resident, which is defined as a negative outcome that compromises the resident's physical, mental, or emotional well-being; or

(II) posed an immediate threat of harm causing or likely to cause serious injury, impairment, or death to a resident; and

(ii) that:

(I) the facility did not challenge;

(II) was affirmed; or

(III) is pending a final determination; and

(B) has not had a sanction imposed by HHSC against the facility during the six years before the date an application is submitted that resulted in:

(i) a civil penalty;

(ii) an administrative penalty;

(iii) an injunction;

(iv) the denial, suspension, or revocation of a license; or

(v) an emergency closure.

(d) An applicant that makes a request in accordance with subsection (a) of this section must:

(1) submit to HHSC via the online portal:

(A) the applicant's policies and procedures;

(B) evidence that the applicant has complied with §553.257[(b)] of this chapter (relating to Personnel [~~Human Resources~~]); and

(C) documentation that the applicant's employees have the credentials described in §553.253 of this chapter (relating to Employee Qualifications and Training); and

(2) comply with §553.23(d) of this subchapter and §553.17 of this subchapter (relating to Criteria for Licensing).

(e) HHSC issues an initial license to an applicant that makes a request in accordance with subsection (a) of this section if HHSC determines that an applicant:

(1) is in good standing;

(2) has submitted information in accordance with subsection (d)(1) of this section that complies with this chapter; and

(3) is in compliance with applicable [~~NFPA 101 and other physical plant~~] requirements of Subchapter D of this chapter (relating to Facility Construction), including meeting the requirements of a life safety code [~~Life Safety Code~~] (LSC) inspection within 120 days after the date HHSC staff conduct the initial LSC inspection.

(f) HHSC staff conduct an onsite [~~on-site~~] health inspection within 90 days after the date HHSC issues a license in accordance with subsection (e) of this section. The onsite [~~on-site~~] health inspection includes HHSC observation of the facility's provision of care to at least one resident.

(g) Until a facility that is issued an initial license under this section meets the requirements of the onsite [~~on-site~~] health inspection described in subsection (f) of this section, the facility must attach a written addendum to the disclosure statement required by §553.259(c)[~~(1)~~] of this chapter (relating to Admission Policies and Procedures) as notice to a resident or a prospective resident that the facility has not met the requirements of the onsite [~~on-site~~] health inspection. At a minimum, the addendum must state that:

(1) the facility has not met the requirements of an initial onsite [~~on-site~~] health inspection for a license; and

(2) HHSC staff conduct an onsite [~~on-site~~] health inspection for licensure within 90 days after the date the license is issued.

§553.27. Certification of a Type B Facility or Unit for Persons with Alzheimer's Disease and Related Disorders.

(a) A facility that advertises, markets, or otherwise promotes that the facility or a distinct unit of the facility provides specialized care for persons with Alzheimer's disease or related disorders must be certified or have the unit certified under subsection (d) of this section or §553.29 of this subchapter (relating to Alzheimer's Certification of a Type B Facility for an Initial License Applicant in Good Standing). Certification under this section is not required for a facility to use advertising terms such as "medication reminders or assistance," "meal and activity reminders," "escort service," or "short-term memory loss, confusion, or forgetfulness."

(b) To be certified under subsection (d) of this section, a facility must be licensed as a Type B facility.

(c) A license holder must request certification of a facility or unit under subsection (d) of this section by submitting the forms prescribed by HHSC via the online portal and include full payment of applicable fees described in §553.47(c) of this subchapter (relating to License Fees).

(d) After HHSC receives a request for certification in accordance with subsection (c) of this section, HHSC certifies a licensed Type B facility as a certified Alzheimer's facility or a unit of a licensed Type B facility as a certified Alzheimer's unit, if HHSC determines:

(1) that the facility or unit is in compliance with §553.250 [~~§553.311~~] of this chapter (relating to Construction Requirements for a Certified Alzheimer's Assisted Living Facility [~~Physical Plant Requirements for Alzheimer's Units~~]) and other applicable requirements of Subchapter D of this chapter [~~(relating to Facility Construction)~~], including meeting the requirements of a Life Safety Code (LSC) inspection [~~within 120 days after the date HHSC staff conduct an initial life safety code [LSC] inspection; and~~]; and

(2) that the facility or unit meets the requirements of Subchapter F of this chapter (relating to Additional Licensing Standards for Certified Alzheimer's Assisted Living Facilities) based on an onsite [~~on-site~~] health inspection, during which HHSC observes the facility's or unit's provision of care to at least one resident who has been admitted to the Alzheimer's facility or unit.

(e) A facility or unit may not exceed the maximum number of residents specified on the Alzheimer's certificate issued to the facility by HHSC.

(f) A facility must post the facility's or unit's Alzheimer's certificate in a prominent location for public view.

(g) An Alzheimer's certificate is valid for three years from the effective date of approval by HHSC.

(h) HHSC cancels an Alzheimer's certificate if:

(1) a certified facility, or the facility in which a certified unit is located, undergoes a change of ownership; [~~or~~]

(2) HHSC determines that a certified facility or unit is not in compliance with applicable laws and rules; or[-]

(3) the legal entity or individual for which the certification is issued voluntarily closes the certification.

(i) A facility must remove a cancelled certificate from display and advertising and surrender the certificate to HHSC.

§553.29. Alzheimer's Certification of a Type B Facility for an Initial License

Applicant in Good Standing.

(a) An applicant may request that HHSC, before conducting an onsite ~~[on-site]~~ health inspection, issue an initial license for a Type B facility and an Alzheimer's certification for the facility or a distinct unit of the facility. The applicant must meet the requirements of §553.25 of this subchapter (relating to Initial License for a Type A or Type B Facility for an Applicant in Good Standing) for the initial license and the requirements of this section for certification of the facility or unit.

(b) An applicant must request certification by submitting forms prescribed by HHSC via the online portal and include full payment of applicable fees described in §553.47 of this subchapter (relating to License Fees).

(c) An applicant that makes a request in accordance with subsection (a) of this section is not required to admit a resident to the facility or unit or have the onsite ~~[on-site]~~ health inspection described in §553.23(f) of this subchapter (relating to Initial License Application Procedures and Requirements) before HHSC certifies the facility or unit if HHSC determines that the applicant is in good standing:

(1) for the issuance of an initial license of the facility in accordance with §553.25(c) of this subchapter; and

(2) for certification of the facility or unit in accordance with subsection (d) of this section.

(d) An applicant is in good standing to obtain certification of a facility or unit if:

(1) for at least six consecutive years before applying for certification:

(A) the applicant has been:

(i) the license holder for an Alzheimer's certified facility in Texas or a facility in Texas that has an Alzheimer's certified unit; or

(ii) a controlling person of the license holder for an Alzheimer's certified facility in Texas or a facility in Texas that has an Alzheimer's certified unit; or

(B) a controlling person of the applicant has been:

(i) the license holder for an Alzheimer's certified facility in Texas or a facility in Texas that has an Alzheimer's certified unit; or

(ii) a controlling person of the license holder for an Alzheimer's certified facility in Texas or a facility in Texas that has an Alzheimer's certified unit;

(2) each licensed facility operated by the applicant or the controlling person has not had a violation or sanction described in §553.25(c)(2) of this subchapter; and

(3) each licensed facility operated by the applicant or the controlling person has had no more than two violations listed in §553.287 ~~[§553.267(a)]~~ of this chapter (relating to Rights) during the six-year period immediately before the applicant applied for certification.

(e) For purposes of subsection (d)(3) of this section, a facility has a violation if:

(1) the applicant or controlling person operating the facility did not challenge the violation;

(2) a final determination on the violation is pending; or

(3) the violation was upheld.

(f) An applicant that makes a request in accordance with subsection (a) of this section must submit to HHSC for approval via the online portal:

(1) the applicant's policies and procedures required by Subchapter F of this chapter [~~(relating to Additional Licensing Standards for Certified Alzheimer's Assisted Living Facilities)~~]; and

(2) documentation demonstrating that the applicant is complying with Subchapter F of this chapter and §553.257[~~(b)~~] of this chapter [~~(relating to Human Resources)~~].

(g) HHSC certifies a facility or unit after an applicant makes a request in accordance with subsection (a) of this section if HHSC determines that the applicant:

(1) meets the good standing requirements described in §553.25(c) of this subchapter and subsection (d) of this section;

(2) has submitted information in accordance with subsection (f) of this section; and

(3) is in compliance with:

(A) §553.27 of this subchapter (relating to Certification of a Type B Facility or Unit for Persons with Alzheimer's Disease and Related Disorders); and

(B) §553.250 [~~§553.311~~] of this chapter (relating to Construction Requirements for a Certified Alzheimer's Assisted Living Facility [~~Physical Plant Requirements for Alzheimer's Units~~]).

(h) HHSC conducts an onsite [~~on-site~~] health inspection to determine if the facility or unit meets the requirements of Subchapter F of this chapter within 90 days after the date HHSC certifies a facility or unit in accordance with subsection (g) of this section. During each onsite [~~on-site~~] health inspection, HHSC observes the provision of care to at least one resident who has been admitted to the facility or unit.

(i) Until a facility or unit that is issued a certification under this section meets the requirements of the onsite [~~on-site~~] health inspection described in subsection (h) of this section, the facility must attach a written addendum to the disclosure statement required by §553.307(a) of this chapter (relating to Admission Procedures, Evaluation [~~Assessment~~], and Service Plan) to notify a resident or a prospective resident that the facility or unit has not met the requirements of the

onsite [~~on-site~~] health inspection. At a minimum, the addendum must state that:

(1) the facility or unit has not met the requirements of an initial onsite [~~on-site~~] health inspection for Alzheimer's certification; and

(2) HHSC conducts an onsite [~~on-site~~] health inspection for Alzheimer's certification within 90 days after the date of certification.

(j) To obtain certification of a unit in a Type B facility that is already licensed, a license holder must comply with §553.27 of this subchapter.

§553.31. Provisional License.

~~[(a) HHSC may issue a six-month provisional license in the case of a corporate change of ownership.~~

(a) ~~[(b)]~~ HHSC may issue [issues] a six-month provisional license for a newly constructed facility without conducting a life safety code [~~an NFPA 101 and physical plant~~] inspection to verify that the facility is in compliance with the applicable requirements of [~~under~~] Subchapter D of this chapter (relating to Facility Construction), [~~and, as applicable §553.311, of this chapter (relating to Physical Plant Requirements for Alzheimer's Units),~~] if:

(1) an applicant requests in writing a provisional license by submitting the appropriate application in the online portal;

(2) the applicant submits working drawings and specifications to HHSC for review in accordance with applicable procedures for plan review, approval, and construction in Subchapter D of this chapter, before facility construction begins;

(3) the applicant obtains all approvals, including a certificate of occupancy in a jurisdiction that requires one, from local authorities having jurisdiction in the area in which the facility is located, such as the fire marshal, health department, and building inspector;

(4) the applicant submits a complete license application within 30 days after receipt of all local approvals described in paragraph (3) of this subsection;

(5) the applicant pays in full the license fees required by §553.47 of this subchapter (relating to License Fees);

(6) the applicant, or a person who is a controlling person and an owner of the applicant, has constructed another facility in this state that complies with applicable [~~NFPA 101 and physical plant~~] requirements in Subchapter D of this chapter[, ~~and, as applicable, §553.311 of this chapter~~]; and

(7) the applicant is in compliance with resident-care standards for licensure required by Subchapter E of this chapter (relating to Standards for Licensure) based on an onsite [~~on-site~~] inspection conducted in accordance with §553.327 of this chapter (relating to Inspections, Investigations, and Other Visits).

(b) ~~[(e)]~~ HHSC considers the date facility construction begins to be the date the building construction permit for the facility was approved by local authorities.

(c) ~~[(d)]~~ A provisional license expires on the earlier of:

(1) the 180th day after the effective date of the provisional license or the end of any extension period granted by HHSC; or

(2) the date a three-year license is issued to the provisional license holder.

(d) ~~[(e)]~~ HHSC conducts a life safety code ~~[an NFPA 101 and physical plant]~~ inspection of a facility as soon as reasonably possible after HHSC issues a provisional license to the facility.

(e) ~~[(f)]~~ After conducting a life safety code ~~[an NFPA 101 and physical plant]~~ inspection, HHSC issues a license in accordance with Texas Health and Safety Code §247.023 to the provisional license holder if the facility passes the inspection and the applicant meets all requirements for a license.

§553.33. Renewal Procedures and Qualifications.

(a) The facility is responsible for submitting an application for license renewal via the online portal before the expiration date printed on the license. A license issued under this chapter:

(1) expires three years after the date issued;

(2) must be renewed before the license expiration date; and

(3) is not automatically renewed.

(b) An application for renewal must comply with the requirements of §553.19 of this subchapter (relating to General Application Requirements), and, as applicable, §553.21 of this subchapter (relating to Time Periods for Processing All Types of License Applications). The submission of a license fee alone does not constitute an application for renewal.

(c) To renew a license, a license holder must submit an application for renewal with HHSC via the online portal before the expiration date of the license. For purposes of Texas Government Code §2001.054, HHSC considers a license holder to have submitted a timely and sufficient application for the renewal of a license, which continues the license in effect and permits the facility to continue operations while HHSC is processing the renewal application, if the license holder submits to HHSC the basic fee described in §553.47(a)(1) or (2) of this subchapter (relating to License Fees); and[÷]

(1) a complete application for renewal no later than 45 days before the expiration of the current license;

(2) an incomplete application for renewal, with a letter explaining the circumstances that prevented the inclusion of the missing information no later than

45 days before the expiration of the current license; or

(3) a complete application or an incomplete application, with a letter explaining the circumstances that prevented the inclusion of the missing information, and the late fee described in §553.47(b) of this chapter during the 45-day period ending on the date the current license expires.

(d) HHSC may propose to deny, in accordance with subsection (m) of this section, a timely and sufficient, but incomplete, renewal application submitted in accordance with subsection (c) of this section if the license holder fails to complete the application by paying in full all fees due beyond the basic fee and late fee paid in accordance with §553.47(b) of this chapter, and by submitting all information and documentation required to complete the license holder's renewal application before the date that the current license expires. HHSC does not grant a license unless a renewal application is complete. It is the license holder's responsibility to ensure that the application is timely submitted to HHSC.

(e) A license expires if the license holder fails to submit a timely and sufficient application in accordance with subsection (c) of this section before the expiration date of the license.

(f) A person whose license has expired may not operate a facility without obtaining a license in accordance with the application requirements for an initial license in §553.23 of this subchapter (relating to Initial License Application Procedures and Requirements). Operating a facility without a license is subject to civil and administrative penalties and other authorized civil remedies.

(g) HHSC reviews an application for a renewal license within 30 days after the date HHSC Licensing and Credentialing Section, Long-term Care Regulation, receives the application and notifies the applicant if additional information is needed to complete the application.

~~[(h) A license holder applying for a renewal license must show that the facility meets HHSC licensing standards based on an on-site inspection by HHSC. The on-site inspection must include an observation of the care of a resident.]~~

(h) ~~[(i)]~~ If an applicant is relying on meeting standards for accreditation in accordance with §553.17(c)(3)(B) ~~[\$553.17(2)]~~ of this subchapter (relating to Criteria for Licensing) to show that it meets the requirements for licensure, the application for a renewal license must include a copy of the license holder's accreditation report from the accreditation commission with its application for renewal.

(i) ~~[(j)]~~ HHSC may pend action on an application for the renewal of a license for up to six months if the facility does not meet licensure requirements during an onsite ~~[on-site]~~ inspection.

(j) ~~[(k)]~~ The issuance of a license constitutes official written notice from HHSC to the facility that its application is approved.

(k) ~~[(h)]~~ HHSC may deny an application for the renewal of a license if the applicant, controlling person, or any person required to submit background and qualification information fails to meet the criteria for a license established in §553.17 of this subchapter.

(l) ~~[(m)]~~ Before denying an application for renewal of a license, HHSC gives the license holder:

(1) notice by registered or certified mail of the facts or conduct alleged to warrant the proposed action; and

(2) an opportunity to show compliance with all requirements of law for the retention of the license.

(m) ~~[(n)]~~ To request an opportunity to show compliance, the license holder must send its written request to the Associate Commissioner of Long-term Care Regulation. The request must:

(1) be postmarked no later than 10 days after the date of HHSC notice and be received in the office of the Associate Commissioner of Long-term Care Regulation no later than 10 days after the date of the postmark; and

(2) contain specific documentation refuting HHSC allegations.

(n) ~~[(o)]~~ The opportunity to show compliance is limited to a review of documentation submitted by the license holder and information HHSC used as the basis for its proposed action and is not conducted as an adversary hearing. HHSC gives the license holder a written affirmation or reversal of the proposed action.

(o) ~~[(p)]~~ If HHSC denies an application for the renewal of a license, the applicant may request:

(1) an informal reconsideration by HHSC; and

(2) an administrative hearing or binding arbitration to appeal the denial, as described in §553.801 of this chapter (relating to Arbitration).

§553.37. Relocation.

(a) Relocation is the closing of a facility and the movement of its residents to another location for which the license holder does not hold a current license. This section does not apply to relocations conducted as part of a facility's emergency response activities under §553.295 of this chapter (relating to Emergency Preparedness and Response).

(b) A license holder must not relocate a facility without a license from HHSC for the facility at the new location.

(c) To apply for relocation, the license holder for the current location must submit an application via the online portal for an initial license for the new location in accordance with §553.23 of this subchapter (relating to Initial Application

Procedures and Requirements) and full payment of the fees required in §553.47 of this subchapter (relating to License Fees). The applicant must enter the proposed date of relocation on the application, subject to issuance of a license.

(d) Residents must not be relocated until the new building has been inspected and approved as meeting the life safety code [~~Life Safety Code~~] licensure requirements in Subchapter D of this chapter (relating to Facility Construction).

(e) Following life safety code [~~Life Safety Code~~] approval by HHSC, the license holder must notify HHSC via the online portal of the date the residents will be relocated.

(f) After a facility has met standards of operations in subsection (d) of this section, HHSC staff conduct an onsite [~~on-site~~] health inspection if one was not conducted within the last survey [~~licensure~~] period, to determine if the facility meets the licensure requirements for standards of operation and resident care in Subchapter E of this chapter (relating to Standards for Licensure).

(g) HHSC issues a license for the new facility if the new facility meets the standards of operations in subsections (d) and (e) of this section.

(h) The license holder must continue to maintain the license at the current location and must continue to meet all requirements for operation of the facility until HHSC has approved the relocation. The issuance of a license constitutes HHSC approval of the relocation. The license for the current location becomes invalid upon issuance of the new license for the new location. The license from the other location must be returned to HHSC.

§553.39. Increase in Capacity.

(a) A license holder must not increase a facility's licensed capacity without approval from HHSC.

(b) The license holder must submit an application for an increase in capacity in accordance with §553.19 of this subchapter (relating to General Application Requirements) and the fee required in §553.47 of this subchapter (relating to License Fees).

(c) The license holder must arrange for an inspection of the facility by the local fire marshal and provide the signed fire marshal approval to HHSC.

(d) After HHSC's review of an application and after the applicant notifies HHSC via the online portal that the facility is ready for a life safety code [~~Life Safety Code~~] (LSC) inspection, HHSC staff conduct an onsite [~~on-site~~] LSC inspection of the facility to determine if the facility meets the [~~LSC~~] licensure requirements in Subchapter D of this chapter (relating to Facility Construction).

(e) If the facility fails to meet the LSC licensure requirements within 120 days after the LSC inspection, HHSC denies the application for an increase in capacity.

(f) After a facility has met LSC licensure requirements, HHSC staff conduct an

onsite [~~on-site~~] health inspection, if one was not conducted within the last survey [~~licensure~~] period, to determine if the facility meets the licensure requirements for standards of operation and resident care in Subchapter E of this chapter (relating to Standards for Licensure).

(g) HHSC issues a new license with an increased capacity within 30 days after HHSC determines that all licensure requirements have been met. HHSC may grant approval to occupy the increased capacity once HHSC determines that all licensure requirements have been met.

(h) In order to meet the residents' health and safety needs in the event of a fire, natural disaster, or catastrophic event, HHSC may grant approval to temporarily exceed a facility's licensed capacity provided the health and safety of residents are not compromised and the facility can meet the required health care service needs of all residents. A facility may exceed its licensed capacity under this circumstance, monitored by HHSC Survey Operations, until residents can be transferred to a permanent location. HHSC issues authorization for the temporary increase in the facility's licensed capacity. The authorization to temporarily increase the capacity ends when the facility receives written notice from HHSC ending the authorization.

§553.45. Voluntary Closure.

(a) A license holder that intends to voluntarily close an assisted living facility must send, at least 30 days before the facility closes, a written notice of the intent to close the facility, including the anticipated date of the closure, to HHSC Licensing, the facility's designated regional office, the State Ombudsman, and the residents of the facility and their legally authorized representatives.

(b) If, for reasons beyond the license holder's control, the license holder is not able to provide at least 30 days' notice in advance of the anticipated closure date, the license holder must, within two days before closing the facility;

(1) notify HHSC Licensing, the facility's designated regional office, and the State Ombudsman and the residents of the facility and their legally authorized representatives of the decision to close the facility; and

(2) provide the State Ombudsman with a list of residents who may need assistance to relocate.

(c) The facility must assist a resident to find placement at another facility upon request.

§553.47. License Fees.

(a) Basic fees.

(1) Type A and Type B. The license fee is \$300, plus \$15 for each bed for which a license is sought, with a maximum of \$2,250 for a three-year license. The fee must be paid with an initial application, change of ownership application, or renewal application.

(2) Increase in capacity. An approved increase in capacity is subject to an additional fee of \$15 for each bed. HHSC does not assess the fee for temporary capacity increases in response to an emergency.

(b) Late renewal fee. An applicant that submits an application for license renewal later than the 45th day before the expiration date of the license must pay a late fee of an amount equal to one-half of the basic fee required in accordance with subsection (a)(1) and (2) of this section.

(c) Alzheimer's certification. In addition to the basic license fee described in subsection (a) of this section, a facility that applies for certification as an Alzheimer's facility under Subchapter E of this chapter (relating to Standards for Licensure) must pay an additional license fee. For a three-year license issued in accordance with subsection (a)(1) of this section or §553.33(a)(1) of this subchapter, the additional fee is \$300.

(d) Trust fund fee.

(1) If the amount in the facility trust fund, established under Texas Health and Safety Code, Chapter 242, Subchapter D, and ~~[Chapter 247]~~§247.003(b), is less than \$500,000, HHSC collects an annual fee from each facility. The fee is based on a monetary amount specified for each licensed unit of capacity or bed space and is in an amount sufficient to provide not more than \$500,000 in the trust fund. When the trust fund fee is collected, HHSC sends written notice to each facility stating the amount of the fee and the date the fee is due. A facility must pay the amount of the fee within 90 days after the date the fee is due.

(2) HHSC may charge and collect a trust fund fee more than once a year if necessary to ensure that the amount in the facility trust fund is sufficient to make the disbursements required under Texas Health and Safety Code §242.0965. When this subsequent trust fund fee is collected, HHSC sends written notice to each facility stating the amount of the fee and the date the fee is due. A facility must pay the amount of the fee within 90 days after the date the fee is due.

(3) Failure to pay the trust fund fee within 90 days after the date the fee is due as stated on the written notice described in paragraphs (1) and (2) of this subsection may result in an assessment of an administrative penalty under the administrative penalties described in §553.751 ~~[Subchapter H, Division 9]~~ of this chapter (relating to Administrative Penalties).

(e) Plan review fee. An applicant may submit building plans for a new building, an addition, the conversion of a building not licensed, or for the remodeling of an existing licensed facility for review by HHSC architectural staff. If the applicant chooses to submit building plans for review, the applicant must pay a fee for the plan review according to the following schedule:

Figure: 26 TAC §553.47(e)

(f) Payment of fees. A facility or applicant must pay fees in a method allowable by ~~[check, cashier's check, money order, or credit card, made payable to]~~ HHSC. All

fees are nonrefundable, except as provided in Texas Government Code, Chapter 2005, and in §553.21(d) of this chapter (relating to Time Periods for Processing All Types of License Applications).

(g) Optional expedited inspection and associated fee.

(1) An applicant for an assisted living facility license may obtain an expedited inspection described in subparagraph (A) or (B) of this paragraph if the applicant meets the requirements in both clauses of the applicable subparagraph.

(A) A life safety code [~~Life Safety Code~~] (LSC) inspection conducted no later than the 15th calendar day after the date HHSC receives a request for an expedited inspection, if the applicant:

(i) indicates that the facility is ready for a LSC inspection [~~meets the application requirements under this subchapter for the applicable license~~]; and

(ii) submits the applicable expedited LSC inspection fee in accordance with the fee schedule in paragraph (2) of this subsection; or

(B) an onsite [~~on-site~~] health inspection conducted no later than the 21st calendar day after the date HHSC receives a request for an expedited inspection, if the applicant[÷]

(i) indicates that it is[they] [are] ready for a health inspection [~~meets the application requirements under this subchapter for the applicable license~~]; and

(ii) submits the applicable expedited onsite [~~on-site~~] health inspection fee in accordance with the fee schedule in paragraph (2) of this subsection.

(2) An applicant requesting an expedited inspection must include the applicable fee from the following fee schedule with a request for an expedited inspection submitted in accordance with paragraph (1) of this subsection.

Figure: 26 TAC §553.47(g)(2)

(h) If, after HHSC conducts two LSC inspections for a given application, the applicant requests an additional inspection, then the applicant must pay a fee of \$25 per bed, with a minimum payment of \$1,000 for the third and each subsequent inspection pertaining to the same application.

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 553 LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES
SUBCHAPTER B LICENSING

~~[\$553.43. Disclosure of Facility Identification Number.]~~

~~[A facility must use its state-issued facility identification number in all advertisements, solicitations, and promotional materials, including yellow pages, brochures, and business cards.]~~

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 553 LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES
SUBCHAPTER D FACILITY CONSTRUCTION
DIVISION 1 GENERAL PROVISIONS

§553.100. General Requirements.

(a) A building or structure used as a licensed assisted living facility, whether new or existing, must comply with these standards.

(b) All assisted living facilities must comply with NFPA 101 [~~National Fire Protection Association Life Safety Code (NFPA 101)~~] and any applicable Tentative Interim Amendment (TIA) issued by NFPA, except as otherwise stated in these standards.

(c) All assisted living facilities must comply with other chapters, sections, subsections, and paragraphs of NFPA 101, as they relate to: Chapter 18, New Health Care Occupancies; Chapter 19, Existing Health Care Occupancies; Chapter 32, New Residential Board and Care Occupancies; and Chapter 33, Existing Residential Board and Care Occupancies, including:

- (1) Chapter 1, Administration;
- (2) Chapter 2, Referenced Publications;
- (3) Chapter 3, Definitions;
- (4) Chapter 4, General;
- (5) Chapter 5, Performance-Based Option;
- (6) Chapter 6, Classification of Occupancy and Hazard of Contents;
- (7) Chapter 7, Means of Egress;
- (8) Chapter 8, Features of Fire Protection;
- (9) Chapter 9, Building Service and Fire Protection Equipment;
- (10) Chapter 10, Interior Finish, Contents, and Furnishings;
- (11) Chapter 11, Special Structures and High-Rise Buildings; and
- (12) Chapter 43, Building Rehabilitation.

(d) An assisted living facility that wishes to be reclassified from a small facility to a large facility, from a Type A facility to a Type B facility, or both, must meet the requirements for a new facility of the type and size specified in this subchapter to be reclassified.

(e) The requirements of this subchapter apply to an assisted living facility as follows. [÷]

(1) All assisted living facilities must comply with Division 1 of this subchapter (relating to General Provisions) and Division 2 of this subchapter (relating to Provisions Applicable to All Facilities).

(2) An assisted living facility initially licensed before August 31, 2021, and continually operated under an assisted living license without interruption since then, is considered an existing assisted living facility and must comply with the following, as applicable.^[÷]

(A) An existing small Type A assisted living facility must comply with Division 4 of this subchapter (relating to Existing Small Type A Assisted Living Facilities).

(B) An existing small Type B assisted living facility must comply with Division 5 of this subchapter (relating to Existing Small Type B Assisted Living Facilities).

(C) An existing large Type A assisted living facility must comply with Division 6 of this subchapter (relating to Existing Large Type A Assisted Living Facilities).

(D) An existing large Type B assisted living facility must comply with Division 7 of this subchapter (relating to Existing Large Type B Assisted Living Facilities).

(3) An assisted living facility initially licensed on or after August 31, 2021, or any new building or building addition to a currently licensed assisted living facility constructed on or after August 31, 2021, is considered a new assisted living facility and must comply with the following.^[÷]

(A) A new small Type A assisted living facility must comply with Division 8 of this subchapter (relating to New Small Type A Assisted Living Facilities).

(B) A new small Type B assisted living facility must comply with Division 9 of this subchapter (relating to New Small Type B Assisted Living Facilities).

(C) A new large Type A assisted living facility must comply with Division 10 of this subchapter (relating to New Large Type A Assisted Living Facilities).

(D) A new large Type B assisted living facility must comply with Division 11 of this subchapter (relating to New Large Type B Assisted Living Facilities).

(f) An assisted living facility must comply with local codes and ordinances as follows.^[÷]

(1) An assisted living facility located within the jurisdiction of a local organization, office, or individual responsible for enforcing the requirements of a code or standard, or for approving equipment, materials, an installation, or a procedure that adopts codes or ordinances governing building construction or fire safety (authority having jurisdiction [~~Authority Having Jurisdiction~~] or AHJ) must comply with applicable local codes and ordinances adopted by the AHJ, as interpreted and enforced by the AHJ. The description of the occupancy may vary with local codes.

(2) An assisted living facility located where there is no local AHJ must be

designed and constructed to meet a nationally recognized ~~[nationally recognized]~~ building code and its referenced codes.

(3) An existing building, either occupied as an assisted living facility at the time of initial inspection by HHSC or converted to occupancy as an assisted living facility prior to the initial inspection by HHSC, must meet all local requirements pertaining to that building for that occupancy as administered by the local AHJ for the adopted code or ordinance.

(4) An assisted living facility must submit documentation from the local AHJ that local requirements are satisfied.

(g) When local laws, codes, or ordinances are different from the standards for assisted living facilities set forth in this Subchapter D, an assisted living facility must comply with both local and HHSC requirements.

(h) An assisted living facility must ensure building rehabilitation on existing buildings is classified according to NFPA 101 and that any rehabilitation complies with NFPA 101 and §553.107 of this subchapter (relating to Building Rehabilitation).

(i) An assisted living facility must ensure buildings, or portions of buildings, are not occupied during construction, repair, alterations, or additions, except when required means of egress, required means of escape, and required fire protection features are in place and continuously maintained for the portion occupied. Alternative life safety measures may be put in place if prior approval is obtained from HHSC.

(j) An assisted living facility must ensure no existing life safety feature is removed or reduced when the feature is a requirement for a new facility. Life safety features, and equipment not required by NFPA 101, that have been installed in existing buildings must continue to be maintained or be completely removed, if prior approval is obtained from HHSC.

(k) An assisted living facility must comply with the plan review and inspection requirements of the Texas Accessibility Standards (TAS) adopted by the Texas Department of Licensing and Regulation (TDLR) rules in Texas Administrative Code, Title 16, Chapter 68, and must provide documentation demonstrating it has registered the facility with TDLR and obtained a plan review from a Registered Accessibility Specialist, if TDLR requires the facility to be registered and reviewed.

(l) An assisted living facility must not segregate any area housing residents from other parts of the assisted living facility housing residents, except as permitted by §553.27 ~~[§553.51]~~ of this chapter (relating to Certification of a Type B Facility or Unit for Persons with Alzheimer's Disease and Related Disorders) and §553.29 of this chapter (relating to Alzheimer's Certification of a Type B Facility for an Initial License Applicant in Good Standing).

§553.101. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise. The definitions in §553.3

of this chapter (relating to Definitions) also apply to this subchapter.

(1) Approved--Acceptable to the Texas Health and Human Services Commission.

(2) Authority having jurisdiction (AHJ)--An organization, office, or individual responsible for enforcing the requirements of a code or standard, or for approving equipment, materials, an installation, or a procedure.

(3) Auxiliary serving kitchen--An area that is not contiguous to a food preparation or serving area and that is for serving food but is not used for cooking or meal preparation.

(4) Bedroom usable floor space--The floor area of a resident bedroom that may be considered toward meeting minimum requirements for a resident bedroom floor area.

(5) Building rehabilitation--Any construction activity involving repair, modernization, reconfiguration, renovation, changes in occupancy or use, or installation of new fixed equipment, including:

(A) the replacement of finishes, such as new flooring or wall finishes or the painting of walls and ceilings;

(B) the construction, removal, or relocation of walls, partitions, floors, ceilings, doors, or windows;

(C) the replacement of doors, windows, or roofing;

(D) changes to the appearance of the exterior of a building, including new finish materials;

(E) the installation, repair, replacement, or extension of fire protection systems, including fire sprinkler systems, fire alarm system, and fire suppression systems, at cooking operations;

(F) the replacement of door hardware, plumbing fixtures, handrails in corridors, or grab rails in bathrooms and restrooms;

(G) the repair, replacement, or extension of required communication systems;

(H) the repair or replacement of emergency electrical system equipment and components, including generator sets, transfer switches, distribution panel boards, receptacles, switches, and light fixtures;

(I) the change of a wing or area to a certified [~~Certified~~] Alzheimer's assisted living facility [~~Disease-Assisted-Living-Facility~~] or unit;

(J) the change of a certified [~~Certified~~] Alzheimer's assisted living facility [~~Disease-Assisted-Living-Facility~~] or unit to ordinary resident use [~~resident-use~~];

(K) a change in the use of space, including the change of resident bedrooms

to other uses, such as offices, storage, or living or dining spaces; and

(L) changes in locking arrangements, such as the installation of access control systems or the installation or removal of electronic locking devices, including electromagnetic locks, and other delayed-egress locking devices.

(6) Co-mingles--The laundering of apparel or linens of two or more individuals together.

(7) Conversion--Change of occupancy from an existing residential or health care occupancy to a residential board and care occupancy, including an assisted living facility located in a building that had been used as a residence or a health care facility such as a hospital or a nursing home.

(8) Direct telephone--A telephone that automatically dials and connects to a fixed location when the caller takes the handset off-hook without requiring the caller to input a receiving telephone number. A direct telephone must ring at a location staffed 24-hours a day and may not be answered by an answering machine or voicemail system. A direct telephone may also function as a regular telephone when a receiving telephone number is entered.

(9) Factory Mutual (FM)--An organization that certifies products and services for compliance with loss prevention standards. Also known as FM Approvals.

(10) Finished ground level--The level of the finished ground (earth or other surface on ground).

(11) Fuel-fired heating device--Any equipment, device, or apparatus, or any part thereof, which is installed for the purpose of combustion of fuel, including natural gas, liquid petroleum gas (propane), or solid fuel, to produce heat or energy used as a component of a heating system providing heat for any interior space or water source. Freestanding solid fuel- or pellet-fuel burning appliances such as freestanding wood-burning or pellet-burning stoves do not meet this definition.

(12) Independent cooking equipment--An electric or gas stove or range with one or more burners, with or without an oven.

(13) Living unit--A portion of a facility arranged as a separate unit providing one or more bedrooms, toilet and bathing facilities, and living or dining spaces, with or without facilities for cooking, exclusively for the use of the residents residing in the bedrooms.

(14) Listed--Equipment, materials, or services included in a list published by an organization concerned with evaluation of products or services that maintains periodic inspection of production of listed equipment or materials or periodic evaluation of services, and whose listing states that either the equipment, material, or service meets appropriate designated standards or has been tested and found suitable for a specified purpose. The listing organization must be acceptable to the authority having jurisdiction, including HHSC or any other state, federal, or local authority.

(15) Local code--A model building code adopted by the local building authority where the facility is constructed or located.

(16) [(14)] Neighborhood or household--A portion of a large facility arranged as a unit providing bedrooms, toilet and bathing facilities, resident living areas, and kitchen facilities serving up to 16 residents.

(17) [(15)] NFPA--National Fire Protection Association.

(18) [(16)] NFPA 10--Standard for Portable Fire Extinguishers, 2010 edition.

(19) [(17)] NFPA 13--Standard for the Installation of Sprinkler Systems, 2010 edition.

(20) [(18)] NFPA 13D--Standard for the Installation of Sprinkler Systems in One-and Two-Family Dwellings and Manufactured Homes, 2010 edition.

(21) [(19)] NFPA 13R--Standard for the Installation of Sprinkler Systems in Residential Occupancies Up to and Including Four Stories in Height, 2010 edition.

(22) [(20)] NFPA 25--Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems, 2011 edition.

(23) [(21)] NFPA 54--National Fuel Gas Code, 2012 edition.

(24) [(22)] NFPA 70--National Electrical Code, 2011 edition.

(25) [(23)] NFPA 72--National Fire Alarm and Signaling Code, 2010 edition.

(26) [(24)] NFPA 96--Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, 2011 edition.

(27) NFPA 101--Life Safety Code, 2012 edition.

(28) [(25)] NFPA 110--Standard for Emergency and Standby Power Systems, 2010 edition.

(29) [(26)] NFPA 211--Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances, 2010 edition.

(30) [(27)] NFPA 720--Standard for Installation of Carbon Monoxide (CO) Detection and Warning Equipment, 2012 edition.

(31) [(28)] Special Waste from Health Care-Related Facilities--Special waste from health care-related facilities as defined in Texas Administrative Code, Title 25, Part 1, Chapter 1, Subchapter K (relating to Definition, Treatment, and Disposition of Special Waste from Health Care-Related Facilities).

(32) [(29)] TCEQ--Texas Commission on Environmental Quality.

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 553 LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES
SUBCHAPTER D FACILITY CONSTRUCTION
DIVISION 2 PROVISIONS APPLICABLE TO ALL FACILITIES

§553.103. Site and Location for all Assisted Living Facilities.

(a) Firefighting unit. An assisted living facility must be served by a professional or volunteer firefighting unit and must have a water supply that meets the firefighting unit's requirements and approval.

(b) Correction of hazards. An assisted living facility must correct a site or building condition that HHSC staff identifies to be a fire, health, or physical hazard.

(c) Parking.

(1) An assisted living facility must provide or arrange for nearby parking spaces for the private vehicles of residents and visitors.

(2) An assisted living facility must provide a minimum of one parking space for every four residents in its licensed capacity, and for any fraction thereof, or per local requirements, whichever is more stringent.

(d) Ramps.

(1) An assisted living facility must ensure a ramp, walk, or step is of slip-resistant texture and is uniform, without irregularities.

(2) An assisted living facility must ensure a ramp does not exceed a slope of one foot in 12 feet.

(3) An assisted living facility must ensure any new ramp has a clear width of at least 36 inches. A new ramp is one that was installed or constructed on or after August 31, 2021.

(e) Site conditions. An assisted living facility must provide a guardrail, fence, or handrail where a grade:

(1) makes a [an abrupt] change in level of more than 30 inches vertically in less than 12 inches horizontally; or

(2) has a slope of 45 degrees or more (12 inches of rise in 12 inches of run).

(f) Outside grounds. An assisted living facility must ensure that each outside area, grounds, and any adjacent buildings are maintained in good condition and kept free of rubbish, garbage, and untended growth that may constitute a fire or health hazard.

(g) Drainage. An assisted living facility must ensure site grades provide for water drainage away from structures to prevent ponding or standing water at or near a building, unless the ponding or standing water is part of an approved drainage

system intended to hold water for a period of time.

(h) 100-year Floodplain. An assisted living facility located in a county of more than 3.3 million residents that applies for an initial license or is initially licensed on or after December 6, 2022, must not be located in a 100-year floodplain~~[, if the facility is located in a county of more than 3.3 million residents]~~.

§553.104. Safety Operations.

(a) Local fire marshal inspection.

(1) An assisted living facility must obtain an inspection at least once every 12 months~~[,]~~ by the local fire marshal, or the Texas State Fire Marshal's Office in locations where there is no local fire marshal, and must correct any items cited by the local fire marshal, or the Texas State Fire Marshal's Office, to the satisfaction of those authorities.

(2) An assisted living facility must maintain documentation at the facility reflecting the outcome of the most recent annual inspection.

(b) Emergency evacuation floor plan. An assisted living facility, other than a one-story small Type A or a one-story small Type B assisted living facility, must post an emergency evacuation floor plan in a location visible to residents.

(c) Fire safety plan. An assisted living facility must establish a fire safety plan for the protection of all persons in the facility in the event of fire.

(1) The ~~[An]~~ assisted living facility must ensure the fire safety plan is in effect at all times.

(2) The ~~[An]~~ assisted living facility must make written copies of the fire safety plan ~~[are]~~ available to all supervisory personnel.

(3) The ~~[An]~~ assisted living facility must ensure the fire safety plan addresses:

(A) evacuation to an area of refuge;

(B) evacuation from the building when necessary; and

(C) special staff actions, including fire protection procedures necessary to ensure the safety of any resident.

(4) If the facility is a large Type B assisted living facility the following provisions apply.~~[÷]~~

(A) An existing large Type B assisted living facility must ensure the fire safety plan includes the provisions described in 19.7.2, Procedure in Case of Fire, in NFPA 101, Chapter 19, Existing Health Care Occupancies.

(B) A new large Type B assisted living facility must ensure the fire safety plan includes the provisions described in 18.7.2, Procedure in Case of Fire, in NFPA 101, Chapter 18, New Health Care Occupancies.

(5) The ~~[An]~~ assisted living facility must ensure the fire safety plan is reviewed at least annually and revised, as needed, to address the changing needs of residents. The facility must retain an onsite written record of the date and reason for a review or change to the fire safety plan.

(6) The ~~[An]~~ assisted living facility must instruct and inform all employees of their duties and responsibilities under the fire safety plan at least annually^[7] and when the fire safety plan is revised. The facility must retain an onsite written record of when each employee was instructed of his or her duties and responsibilities under the fire safety plan.

(7) The ~~[An]~~ assisted living facility must keep a copy of the fire safety plan readily available at all times within the facility.

(8) The ~~[An]~~ assisted living facility must ensure the fire safety plan reflects the current evacuation capabilities of the residents.

(d) Fire drills. An assisted living facility must conduct at least one quarterly fire drill on each shift with at least one drill each month. Each drill must meet the following ~~[these]~~ requirements.^[÷]

(1) The ~~[An]~~ assisted living facility must ensure staff take part in fire drills according to the assisted living facility's fire safety plan.

(2) The ~~[An]~~ assisted living facility must inform residents of evacuation procedures and locations of exits.

(3) The ~~[An]~~ assisted living facility must document every fire drill using the most current version of the required Texas Health and Human Services (HHSC) form titled "Fire Drill Report" available on the HHSC website.

(4) If it is a ~~[A]~~ large Type B assisted living facility, the facility must activate the fire alarm signal during a fire drill conducted between 6:00 a.m. and 9:00 p.m.

(5) The ~~[An]~~ assisted living facility may announce a fire drill to residents in advance.

(e) Reporting fires.

(1) The ~~[An]~~ assisted living facility must immediately report a fire causing injury or death to a resident.

(2) An assisted living facility must report a fire causing damage to the facility or facility equipment to HHSC within 72 hours after the fire is extinguished.

(3) After making a report by telephone or email, an assisted living facility must file a written report using the most current version of the required HHSC form titled "Fire Report for Long Term Care Facilities" available on the HHSC website.

(f) Smoking policies. An assisted living facility must establish and enforce policies regarding smoking, even if the policy is that smoking will not be permitted. The

policy must also address the use of e-cigarettes and vaping devices. If smoking will be permitted, the smoking policies must:

(1) designate smoking areas for residents and staff; and

(2) provide ashtrays of noncombustible material and safe design in smoking areas.

(g) Fire alarm system. An assisted living facility must establish a program to inspect, test, and maintain the fire alarm system according to the requirements of NFPA 72, and according to the requirements of NFPA 720 where carbon monoxide detection is provided, and must execute the program at least once every six months.

(1) An assisted living facility must contract with a company that holds an Alarm Certificate of Registration from the State Fire Marshal's Office to execute the program.

(2) An assisted living facility must ensure a company that performs a service under the contract required under paragraph (1) of this subsection completes, signs, and dates an inspection form substantially similar to ~~[like]~~ the inspection and testing form in NFPA 72 for a service provided under the contract.

(3) If a task required by NFPA 72 or NFPA 720 must occur at intervals other than during the contracted visits in this subsection, an assisted living facility must ensure the task is performed and documented by a knowledgeable individual.

(4) An assisted living facility must ensure:

(A) a fire alarm system component that requires visual inspection is visually inspected in accordance with NFPA 72;

(B) a fire alarm system component that requires testing is tested in accordance with NFPA 72; and

(C) a fire alarm system component that requires maintenance is maintained in accordance with NFPA 72.

(5) An assisted living facility that provides carbon monoxide detection must ensure:

(A) a carbon monoxide detection component that requires visual inspection is visually inspected in accordance with NFPA 720;

(B) a carbon monoxide detection component that requires testing is tested in accordance with NFPA 720;

(C) a carbon monoxide detection component that requires maintenance is maintained in accordance with NFPA 720; and

(D) a facility with a carbon monoxide detection component installed before August 31, 2021, must perform visual inspection, testing, and maintenance of that

component beginning no later than August 31, 2022.

(6) A large assisted living facility containing smoke compartments must ensure each required smoke damper is inspected and tested in accordance with NFPA 101.

(7) An assisted living facility must ensure smoke detector sensitivity is checked within one year after installation and every two years thereafter in accordance with test methods in NFPA 72.

(8) An assisted living facility must maintain onsite documentation of compliance with the inspection, testing, and maintenance program to inspect, test, and maintain the fire alarm system described in this subsection and must maintain record copies of documents regarding the installation of a fire alarm system, including as-built installation drawings, operation and maintenance manuals, the installation certificate for the system, and written sequences for its operation.

(9) An assisted living facility must make documentation described in paragraph (8) of this subsection available to HHSC on request.

(h) Fire sprinkler system. An assisted living facility that is equipped with a fire sprinkler system, including a fire sprinkler system meeting NFPA 13D, must establish a program to inspect, test, and maintain the fire sprinkler system according to the requirements of NFPA 25, and must execute the program at least once every six months.

(1) An assisted living facility must contract with a company that holds an appropriate Sprinkler Certificate of Registration from the State Fire Marshal's Office to execute the program.

(2) An assisted living facility must ensure a company that performs a service under the contract required under paragraph (1) of this subsection completes, signs, and dates an inspection form like the inspection and testing form in NFPA 25 for a service provided under the contract.

(3) If a task required by NFPA 25 must occur at intervals other than during the contracted visits in this subsection, an assisted living facility must ensure the task is performed and documented by knowledgeable individuals.

(4) An assisted living facility must ensure that a sprinkler system component that requires visual inspection is visually inspected in accordance with NFPA 25.

(5) An assisted living facility must ensure that a sprinkler system component that requires testing is tested in accordance with NFPA 25.

(6) An assisted living facility must ensure that a sprinkler system component that requires maintenance is maintained in accordance with NFPA 25.

(7) An assisted living facility must ensure that an individual sprinkler head is inspected and maintained in accordance with NFPA 25.

(8) An assisted living facility must maintain onsite documentation of compliance

with the inspection, testing, and maintenance program to inspect, test, and maintain the fire sprinkler system described in this subsection and must maintain record copies of documents regarding the installation of a fire sprinkler system, including as-built installation drawings, hydraulic calculations, proof of adequate fire sprinkler water supply, and installation certificates for the system.

(9) An assisted living facility must make documentation described in paragraph (8) of this subsection available to HHSC on request.

(i) Portable fire extinguishers.

(1) An assisted living facility must ensure staff are appropriately trained in the use of each type of extinguisher in the facility.

(2) An assisted living facility must inspect and maintain portable fire extinguishers; and[÷]

(A) ensure that its staff perform regular monthly inspections or "quick checks" to ensure extinguishers are located in the designated place, extinguisher locations are not obstructed to access or visibility, and the pressure gauge reading or indicator on the extinguisher is in the operable range or position;

(B) ensure annual maintenance and inspection or "thorough checks" are performed according to NFPA 10 by an individual employed by a company holding an appropriate Extinguisher Certificate of Registration from the State Fire Marshal's Office to perform inspection, testing, and maintenance of portable fire extinguishers;

(C) maintain onsite[7] a record of all fire extinguisher inspections and maintenance performed; and

(D) replace unserviceable fire extinguishers.

(j) General facility condition and safety features.

(1) An assisted living facility must ensure staff utilize procedures to avoid cross-contamination between clean and soiled processes, including the handling of linens and cooking utensils.

(2) An assisted living facility must keep all buildings in good repair.

(A) An assisted living facility must maintain electrical, heating, and cooling systems so these systems operate in a safe manner. As evidence that these systems operate in a safe manner, HHSC may require the facility to submit a report prepared by [~~one of the following~~]:

(i) the fire marshal;

(ii) the city or county building official having jurisdiction over the location of the facility;

(iii) a licensed electrician; or

(iv) a registered professional engineer.

(B) An assisted living facility must ensure electrical appliances, devices, and lamps do not overload circuits or use extension cords of excessive length.

(3) An assisted living facility must keep all buildings free of accumulations of dirt, rubbish, dust, and hazards.

(4) An assisted living facility must maintain floors in good condition and clean floors regularly.

(5) An assisted living facility must [~~structurally~~] maintain walls and ceilings and must repair, repaint, or clean walls and ceilings whenever needed.

(6) An assisted living facility must keep storage areas and cellars organized and free from obstructions.

(7) An assisted living facility must not store any items or allow the accumulation of waste in attic spaces.

(8) An assisted living facility must ensure all equipment requiring periodic maintenance, testing, and servicing is accessible.

(A) An assisted living facility must ensure equipment that is necessary to conduct maintenance, testing, and services, including ladders, specific tools, and keys, is readily available to staff or maintenance personnel on site.

(B) An assisted living facility must provide access panels, at least 20 inches wide by 20 inches long, for building maintenance and must ensure access panels are located for reasonable access to equipment and fire or smoke barrier walls installed in the attic or other concealed spaces.

(k) Waste and storage containers.

(1) An assisted living facility must provide metal waste baskets of substantial gauge or any UL- or FM-approved container in each area where smoking is permitted, if applicable, in accordance with the facility's smoking policies required in subsection (f) of this section.

(2) An assisted living facility must provide one or more garbage, waste, or trash containers with close-fitting covers, made of metal or of any UL- or FM-approved material, for use in:

(A) kitchens;[7]

(B) janitor closets;[7]

(C) laundry rooms;[7]

(D) mechanical rooms; [ø¶]

(E) boiler rooms; and[7]

(F) rooms used for [general] storage [rooms, and similar places].

(3) A facility may use disposable plastic liners in the containers for sanitation.

(4) ~~[(3)]~~ An assisted living facility must ensure waste, including waste classified as Special Waste from Health Care-Related Facilities, trash, and garbage are disposed of from the premises at regular intervals according to state and local requirements. The facility may not permit or allow an accumulation of waste on the facility premises, either inside or outside of facility buildings.

(l) Pest control.

(1) An assisted living facility must have an ongoing and effective pest control program executed by facility staff or by contract with a licensed pest control company.

(2) An assisted living facility must ensure the chemicals used to control pests are the least toxic and least flammable chemicals that are effective.

(3) An assisted living facility must ensure each operable window is provided with an insect screen.

(m) Flammable or combustible liquids. An assisted living facility must not store flammable or combustible liquids, such as gasoline, oil-based paint, charcoal lighter fluid, or similar products, in a building that houses residents.

(n) Storage of oxygen. An assisted living facility must ensure sanitary use and storage of oxygen for the safety of all residents.

(1) An assisted living facility must ensure oxygen cylinders in the possession and under the control of the facility are:

(A) identified by attached labels or stencils naming the contents;

(B) not stored with flammable or combustible materials;

(C) protected from abnormal mechanical shock that ~~[, which]~~ is liable to damage the cylinder, valve, or safety device;

(D) protected from tamper by unauthorized individuals;

(E) if not supported in a proper cart or stand, properly chained or supported;

(F) stored so the cylinders can be used in the order received from the supplier;

(G) if empty and full cylinders are stored in the same enclosure or room, stored so that empty cylinders are separated from full cylinders; and

(H) if empty, marked to avoid confusion and delay if a full cylinder is needed in a rapid manner.

(2) An assisted living facility must adopt, implement, and enforce procedures for

resident use, storage, and handling of oxygen cylinders and liquid oxygen containers in the possession and under the control of residents[7] to ensure the safety of all residents.

(o) Gas pressure test.

(1) An assisted living facility must obtain an initial pressure test of facility gas lines from the gas meter or propane storage tank to all gas-fired appliances and equipment.

(2) An assisted living facility must obtain an additional gas pressure test when the facility performs major renovations or additions to the gas piping or gas-fired equipment that interrupt gas service or replace gas-fired equipment.

(p) Annual gas heating check.

(1) An assisted living facility must ensure all gas heating systems are checked at least once per year, prior to the heating season for proper operation and safety by persons who are licensed or approved by the State of Texas to inspect the equipment.

(2) An assisted living facility must maintain records [~~of the testing~~] of the annual gas heating check [~~gas heating system~~].

(3) An assisted living facility must correct [~~unsatisfactory~~] conditions that prevent gas heating equipment from operating safely and ensure gas heating equipment will operate as intended.

(q) Emergency generator. A large assisted living facility that uses an emergency generator to provide power to emergency lighting systems must ensure the generator is tested and maintained according to Chapter 8, Routine Maintenance and Operational Testing, in NFPA 110. Routine maintenance and operational testing required by NFPA 110 includes the following procedures:

(1) a readily available record of inspections, test, exercising, operation, and repairs;

(2) monthly testing of cranking batteries;

(3) weekly inspection of the generator set and other components that make up the emergency power system;

(4) monthly exercise of the generator under load;

(5) monthly test of transfer switches; and

(6) a continuous operational test for at least 1-1/2 hours every three years.

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 553 LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES
SUBCHAPTER D FACILITY CONSTRUCTION
DIVISION 3 BUILDING REHABILITATION

§553.107. Building Rehabilitation.

~~[(a) Prior to the start of building rehabilitation, other than that classified as repair in subsection (b) of this section, a facility must notify the Texas Health and Human Services commission (HHSC) in Austin, Texas, in writing.]~~

(a) ~~[(b)]~~ Upon completion of building rehabilitation, other than that classified as repair or renovation in this section, a final construction inspection of the facility must be performed by HHSC prior to occupancy. The facility is responsible for being aware of requirements for approval of the completed construction by ~~[must have the written approval of]~~ the local authority having jurisdiction, including the fire marshal and building official. When construction or building rehabilitation does not alter the licensed capacity of a facility, based on submitted documentation and the scope of the performed building rehabilitation, HHSC may permit a facility to use the rehabilitated portion of a facility pending a final construction inspection or may determine a final construction inspection is not required.

(b) ~~[(c)]~~ An assisted living facility undergoing any building rehabilitation must meet the requirements of this section.

(1) An assisted living facility must ensure the patching, restoration, or painting of materials, elements, equipment, or fixtures for maintaining such materials, elements, equipment, or fixtures in good or sound condition is classified as repair and must ensure the repair:

(A) meets the applicable requirements of §553.100(e) of this subchapter (relating to General Requirements);

(B) uses like materials, unless such materials are prohibited by NFPA 101, as modified by this subchapter; and

(C) does not make a building less conforming with NFPA 101, as modified by this subchapter, with the applicable sections of this subchapter, or with any alternative arrangements previously approved by HHSC, than it was before the repair was undertaken.

(2) An assisted living facility must ensure the replacement in kind, strengthening, or upgrading of building elements, materials, equipment, or fixtures that does not result in a reconfiguration of the building spaces within is classified as renovation and must ensure:

(A) any new work that is part of a renovation meets the applicable requirements of §553.100(e) of this subchapter;

(B) any new interior or exterior finishes meet the applicable requirements of

§553.100(e)(3) of this subchapter; and

(C) does not make a building less conforming with NFPA 101, as modified by this subchapter, with the applicable sections of this subchapter, or with any alternative arrangements previously approved by HHSC, than it was before the renovation was undertaken.

(3) An assisted living facility must ensure the reconfiguration of any space; addition, relocation, or elimination of any door or window; addition or elimination of load-bearing elements; reconfiguration or extension of any system; installation of any additional equipment; or changes in locking arrangements as defined in §553.101(5)(L) [~~§553.101(6)(L)~~] of this subchapter (relating to Definitions), is classified as modification and must ensure:

(A) a newly constructed element, component, or system meets the applicable requirements of §553.100(e)(3) of this subchapter;

(B) all other work in a modification meets, at a minimum, the requirements for a renovation according to paragraph (2) of this subsection; and

(C) where the total rehabilitation work area classified as modification exceeds 50 percent of the total building area, the work is classified as reconstruction subject to paragraph (4) of this subsection.

(4) An assisted living facility must ensure the reconfiguration of a space that affects an exit or a corridor shared by more than one occupant space, or the reconfiguration of a space such that the rehabilitation work area is not permitted to be occupied because existing means of egress or fire protection systems are not in place or continuously maintained, is classified as reconstruction and must ensure:

(A) reconstruction of components of the means of egress meets the applicable requirements of §553.100(e) of this subchapter, except for the following components, which must meet the specific requirements of §553.100(e)(3) of this subchapter:

- (i) illumination of means of egress;
- (ii) emergency lighting of means of egress; and
- (iii) marking of means of egress, including exit signs;

(B) if the total rehabilitation work area classified as reconstruction on any one floor exceeds 50 percent of the total area of the floor, all means of egress components identified in paragraph (4)(A)(i) - (iii) of this subsection and located on that floor meet the specific requirements of §553.100(e)(3) of this subchapter;

(C) if the total rehabilitation work area classified as reconstruction exceeds 50 percent of the total building area, all means of egress components identified in paragraph (4)(A)(i) - (iii) of this subsection and located in the building meet the specific requirements of §553.100(e)(3) of this subchapter; and

(D) all other work classified as reconstruction meets, at a minimum, the requirements for modification according to paragraph (3) of this subsection and renovation according to paragraph (2) of this subsection.

(5) An assisted living facility must ensure a change in the purpose or level of activity within a facility that involves a change in application of the requirements of this subchapter, including a change of a wing or area to a certified [Certified] Alzheimer's assisted living facility [~~Disease-Assisted Living Facility~~] or unit, or a change of a certified [Certified] Alzheimer's assisted living facility [~~Disease-Assisted Living Facility~~] or unit to ordinary resident-use, is classified as a change of use and meets the specific requirements of §553.100(e)(3) of this subchapter.

(6) An assisted living facility must ensure a change in the use of a structure or portion of a structure is classified as a change of occupancy and meets the specific requirements of §553.100(e)(3) of this subchapter.

(7) An assisted living facility must ensure an increase in the building area, aggregate floor area, building height, or number of stories of a structure is classified as an addition and meets the specific requirements of §553.100(e)(3) of this subchapter.

(c)[~~(d)~~] An assisted living facility undergoing rehabilitation must comply with the requirements of NFPA 101, as modified by this subchapter in accordance with the requirements of NFPA 101, Chapter 43, Building Rehabilitation.

(d)[~~(e)~~] An assisted living facility undergoing rehabilitation to an occupied building that involves means of escape, exit-ways, or exit doors must be accomplished without compromising the means of escape, means of egress, or exits or creating a dead-end situation at any time. HHSC may approve temporary exits or the facility must relocate residents until construction blocking the exit is completed. The facility must maintain other basic safety features, including fire alarm systems and fire sprinkler systems, in compliance with their relevant standards and must maintain required emergency power at all times during construction.

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 553 LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES
SUBCHAPTER D FACILITY CONSTRUCTION
DIVISION 4 EXISTING SMALL TYPE A ASSISTED LIVING FACILITIES

§553.111. Construction Requirements for an Existing Small Type A Assisted Living Facility.

(a) Structurally sound. An existing small Type A assisted living facility must ensure any building is structurally sound regarding actual or expected dead, live, and wind loads in accordance with applicable building codes, as determined and enforced by local authorities.

(b) Separation of occupancies. An existing small Type A assisted living facility must be separated from other occupancies by a fire barrier having at least a 2-hour fire resistance rating constructed according to the requirements of NFPA 101 and its referenced standards, unless otherwise permitted by paragraph (2) of this subsection.

(1) An existing small Type A assisted living facility must be separated from other assisted living facilities, hospitals, or nursing facilities. Beginning August 31, 2021, an existing small Type A assisted living facility must be separated from any new occupancy or new use subject to ~~[the]~~ Texas Health and Human Services Commission ~~[commission]~~ (HHSC) licensing.

(2) An existing small Type A assisted living facility is not required to be separated from another occupancy not subject to HHSC licensing standards if the two occupancies are so intermingled that construction of a fire barrier having a 2-hour fire resistance rating is impractical and the following conditions are met.

(A) The means of escape, construction, protection, and other safeguards for the entire building must comply with the NFPA 101 requirements for an existing small Type A assisted living facility.

(B) HHSC must be given unrestricted and unannounced access at any reasonable time to inspect the other occupancy type for compliance with the NFPA 101 requirements for an existing small Type A assisted living facility.

(c) Sheathing.

(1) Except as provided in paragraph (3) of this subsection, an existing small Type A assisted living facility must ensure all buildings used by residents are sheathed with materials providing a fire resistance rating and ensure:

(A) interior wall and ceiling surfaces have finished surfaces, substrates, or sheathing with a fire resistance rating of not less than 20 minutes; and

(B) columns, beams, girders, or trusses that are not enclosed within walls or ceilings are encased in materials having a fire resistance rating of not less than 20 minutes.

(2) A sprinkler system does not substitute for the minimum sheathing requirements under paragraph (1) of this subsection.

(3) A building constructed to meet the minimum building construction type requirements of 19.1.6, Minimum Construction Requirements, in NFPA 101, Chapter 19, Existing Health Care Occupancies, is not also required to be sheathed.

(d) Interior finish. An existing small Type A assisted living facility must ensure interior wall and ceiling finish materials meet the requirements of 33.2.3.3.2, Interior Wall and Ceiling Finish, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

(e) Vertical openings. An existing small Type A assisted living facility must ensure vertical openings are protected according to the requirements of 33.2.3.1, Protection of Vertical Openings, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

§553.112. Space Planning and Utilization Requirements for an Existing Small Type A Assisted Living Facility.

(a) Resident bedrooms.

(1) An existing small Type A assisted living facility must ensure a resident bedroom or living unit is not located on a floor that is below finished ground level.

(2) An existing small Type A assisted living facility must ensure bedroom-usable floor space is not less than 80 square feet for a bedroom housing one resident and not less than 60 square feet per resident for a bedroom housing multiple residents, unless otherwise permitted by paragraphs (3) and (4) of this subsection. Portions of a bedroom that are less than eight feet in the smallest dimension cannot be included in the measurement of bedroom usable floor space, unless approved by HHSC.

(3) An existing small Type A assisted living facility containing individual living units that include living space for the residents in addition to their bedrooms may reduce the bedroom usable floor space for a bedroom housing multiple residents within a living unit by up to 10 percent of the required bedroom usable floor space, as long as the minimum dimensional criteria are maintained. An existing small Type A assisted living facility may not use this provision in conjunction with the provision permitting the reduction of common social-diversional areas or common dining areas found in subsection (g)(5) of this section.

(4) An existing small Type A assisted living facility may house no more than 50 percent of its licensed resident capacity in bedrooms housing three or more residents. A bedroom must not house more than four residents.

(b) Bedroom windows. An existing small Type A assisted living facility must ensure each bedroom has at least one operable window with outside exposure and meeting the following requirements.

(1) The window sill [~~window sill~~] must be no higher than 44 inches above the

floor.

(2) The window must be operable from the inside by all residents occupying the bedroom, [~~from the inside,~~] without the use of tools or special devices.

(3) The total area of all windows in a bedroom must not be less than eight percent of the minimum bedroom usable floor space required by subsection (a)(2) of this section.

(4) An existing bedroom window not meeting these requirements may be continued in service subject to approval by HHSC.

(5) An existing small Type A assisted living facility that is not equipped with a fire sprinkler system meeting the requirements of §553.115 of this division (relating to Fire Protection Systems Requirements for an Existing Small Type A Assisted Living Facility) must provide at least one window in each bedroom in the facility that, in addition to meeting the requirements of paragraphs (1) - (4) of this subsection, meets the following requirements:

(A) The bedroom window must meet the requirements of §553.113 of this division (relating to Means of Escape Requirements for an Existing Small Type A Assisted Living Facility) for use as a secondary means of escape from a resident sleeping room.

(B) The bedroom window must not be blocked by bars, shrubs, or any obstacle that could impede evacuation.

(C) The bedroom window must provide an operable section with a clear opening of not less than 5.7 square feet with a minimum width of 20 inches and a minimum height of 24 inches.

(6) An existing small Type A assisted living facility that is protected by an automatic sprinkler system meeting the requirements of §553.115 of this division must provide an operable window in a bedroom. The window opening size may be smaller than the minimum size listed in paragraph (5) of this subsection but must be operable according to the requirements of paragraph (2) of this subsection.

(c) Bedroom furnishings. When a resident does not provide their own furnishings, an existing small Type A assisted living facility must provide the following furnishings for each resident, which must be maintained in good repair:

(1) a bed, including a mattress;

(2) a chair;

(3) a table or dresser; and

(4) private clothes storage space, which must have closable doors, and drawer space for clothing and personal belongings.

(d) Arrangement of resident living units or rooms.

(1) An existing small Type A assisted living facility must ensure all resident rooms open on an exit, corridor, living area, or public area.

(2) An existing small Type A assisted living facility must ensure all resident rooms are arranged for convenient resident access to dining and recreation areas.

(e) Staff area. An existing small Type A assisted living facility must provide a staff area on each floor of an existing small Type A assisted living facility and in each separate building containing resident sleeping rooms, except as permitted under paragraph (1) of this subsection.

(1) An existing small Type A assisted living facility that is not more than two-stories in height and is composed of separate buildings grouped together and connected by covered walks[7] is not required to provide a staff area on each floor or in each building, provided that a staff area is located not more than 200 feet walking distance from the farthest resident living unit.

(2) An existing small Type A assisted living facility must provide the following at each staff area:

(A) a desk or writing surface;

(B) a telephone; and

(C) a fire alarm control unit or a fire alarm annunciator panel meeting the requirements of §553.115 of this division (relating to Fire Protection Systems Requirements for an Existing Small Type A Assisted Living Facility).

(f) Resident toilet and bathing facilities. An existing small Type A assisted living facility must ensure each resident bedroom is served by a separate, private toilet room, a connecting toilet room, or a general toilet room.

(1) An existing small Type A assisted living facility that houses individuals of more than one gender must provide toilet rooms for each gender, or individual single-occupant toilet rooms for use by any gender.

(2) An existing small Type A assisted living facility must ensure a general toilet room or bathing room is accessible from a corridor or public space.

(3) An existing small Type A assisted living facility must ensure resident toilet and bathing facilities comply with the requirements for resident-use plumbing fixtures according to §553.117 of this division (relating to Mechanical Requirements for an Existing Small Type A Assisted Living Facility).

(g) Resident living areas.

(1) An existing small Type A assisted living facility must provide, in a common area of the facility, social-diversional spaces with appropriate furniture. Examples of social-diversional spaces include living rooms, day rooms, lounges, dens, game rooms, and sunrooms.

(A) An existing small Type A assisted living facility must provide a social-diversional space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of the number of residents or other provisions of this section permitting a reduction in the total minimum social-diversional space.

(B) An existing small Type A assisted living facility must ensure a social-diversional space has one or more exterior windows providing a view of the outside.

(C) An existing small Type A assisted living facility must ensure the total space for social-diversional area provides an area of at least 15 square feet for each resident in the licensed capacity of the facility. No space smaller than 120 square feet in area can be counted toward meeting this requirement.

(2) An existing small Type A assisted living facility must provide a dining area with appropriate furniture.

(A) An existing small Type A assisted living facility must provide a dining space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of the number of residents or other provisions of this section permitting a reduction in the total minimum dining space.

(B) An existing small Type A assisted living facility must ensure a dining space has one or more exterior windows providing a view of the outside.

(C) An existing small Type A assisted living facility must ensure a dining area is accessible from resident living units or bedrooms via a covered path.

(D) An existing small Type A assisted living facility must ensure the total space for dining areas provides an area of at least 15 square feet for each resident in the licensed capacity of the facility. No space smaller than 120 square feet in area can be counted toward meeting this requirement.

(3) An existing small Type A assisted living facility may provide a total living and dining area combined in a single or interconnecting space where the minimum area of the combined space is at least 240 square feet.

(4) An existing small Type A assisted living facility must ensure an escape route through a resident living or dining area is kept clear of obstructions.

(5) Subject to the limitations of paragraphs (1)(A) and (2)(A) of this subsection and subparagraphs (A) and (B) of this paragraph, an existing small Type A assisted living facility containing individual living units may reduce the minimum square footage required by paragraphs (1)(C) and (2)(D) of this subsection for total common social diversional or common dining areas, respectively, by including up to 10 percent of the individual living unit area in the calculation of the total social-diversional area or total dining area.

(A) The individual living unit area contributed toward total social-diversional space or total dining space must not be counted more than once per living unit but may be split between social-diversional and dining space calculations.

(B) An existing small Type A assisted living facility must not utilize both this paragraph and subsection (a)(3) of this section to reduce both the minimum square footage otherwise required for its common social-diversional or dining areas and the minimum square footage of usable floor space otherwise required in bedrooms housing multiple residents within a living unit.

(h) Storage areas. An existing small Type A assisted living facility must provide sufficient separate storage spaces or areas for at least:

(1) administrative records, office supplies, and other storage needs related to administration;

(2) medications and medical supplies;

(3) equipment supplied by the facility for resident needs, including wheelchairs, walkers, beds, and mattresses;

(4) cleaning supplies, including for janitorial needs;

(5) food;

(6) clean linens and towels, if the facility furnishes linen;

(7) soiled linen, if the facility furnishes linen; and

(8) lawn and maintenance equipment.

(i) Kitchen.

~~[(1) An existing small Type A assisted living facility that prepares food off site or in a separate building must ensure food is served at the proper temperature and transported in a sanitary manner.]~~

~~[(2) An existing small Type A assisted living facility that prepares food on site must provide a kitchen or dietary area meeting the general food service needs of the residents and must ensure that the kitchen:]~~

~~(A) is equipped to store, refrigerate, prepare, and serve food;]~~

~~(B) is equipped to clean and sterilize;]~~

~~(C) provides for refuse storage and removal; and]~~

~~(D) meets the requirements of the local fire, building, and health codes.]~~

[{3}] An existing small Type A assisted living facility must ensure a kitchen uses only residential cooking equipment or, if the kitchen uses commercial cooking equipment, that the facility protects the kitchen's cooking operations as required in §553.116 of this division (relating to Hazardous Area Requirements for an Existing Small Type A Assisted Living Facility).

§553.113. Means of Escape Requirements for an Existing Small Type A Assisted Living Facility.

(a) The provisions of NFPA 101, Chapter 7, Means of Egress, do not apply to an existing small Type A assisted living facility unless explicitly referenced by this section or by NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

(b) An existing small Type A assisted living facility must meet the requirements of 33.2.2, Means of Escape, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies, except as described in this section.

(c) An existing small Type A assisted living facility must ensure doors meet the requirements of 33.2.2.5, Doors, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies, and the additional requirements of this section.

(1) A resident room door in an existing small Type A assisted living facility not protected throughout by an approved automatic fire sprinkler system complying with the requirements of §553.115 of this division (relating to Fire Protection Systems Requirements for an Existing Small Type A Assisted Living Facility) must meet the requirements of this paragraph, as applicable ~~[one of the following options]~~. A resident room door is not otherwise required to meet the requirements for doors in 33.2.3.6, Construction of Corridor Walls, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

(A) The door must be a solid core wood door at least 1-3/4 inches thick or have a 20-minute opening protection rating and must latch in its frame to resist the passage of smoke; or

(B) The door must be self-closing or automatic-closing and must latch in its frame to resist the passage of smoke.

(2) A resident room door in an existing small Type A assisted living facility protected throughout by an approved automatic fire sprinkler system complying with the requirements of §553.115 of this division must latch in its frame to resist the passage of smoke.

(3) In an existing small Type A assisted living facility comprised of buildings that contain living units with independent cooking equipment within the living unit, a door between the living unit and a corridor or hallway must:

(A) be self-closing or automatic-closing; and

(B) latch in its frame to resist the passage of smoke.

(4) A resident room door or living unit door must not be arranged to prevent the occupant from closing the door.

(d) An existing small Type A assisted living facility providing a bedroom window used as a secondary means of escape must ensure the window meets the requirements for a bedroom window used as a secondary means of escape in §553.112 of this division (relating to Space Planning and Utilization Requirements for an Existing Small Type A Assisted Living Facility).

(e) An existing small Type A assisted living facility providing spaces for use by residents on floors other than the ground floor must provide at least two separate approved stairs.

(1) An existing stair may be continued in service, subject to approval by HHSC.

(2) A stair used as means of escape must meet the requirements of 33.2.2.6, Stairs, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

(3) Each stair must be arranged and located so that it is not necessary to go through another room, including a bedroom or bathroom, to reach the stair.

(4) Each stair must be provided with handrails.

(5) Each stair must be provided with normal lighting according to the requirements of §553.118 of this division (relating to Electrical Requirements for an Existing Small Type A Assisted Living Facility).

(6) A stair in an existing building that became an assisted living through conversion must meet the dimensional criteria for existing stairs in 7.2.2.2, Dimensional Criteria, in NFPA 101, Chapter 7, Means of Egress.

(7) An existing stair, previously approved by HHSC, may be rebuilt to the same dimensions but must meet all other requirements for stairs in NFPA 101.

§553.115. Fire Protection Systems Requirements for an Existing Small Type A Assisted Living Facility.

(a) Fire alarm and smoke detection system. An existing small Type A assisted living facility must provide a manual fire alarm system meeting the requirements of section 9.6, Fire Detection, Alarm, and Communication Systems, in NFPA 101, Chapter 9, Building Service and Fire Protection Equipment, as modified by this section.

(1) General. An existing small Type A assisted living facility must ensure the operation of any alarm initiating device automatically activates an audible or a visual alarm at the site.

(2) Smoke detectors.

(A) An existing small Type A assisted living facility must install smoke detectors in resident bedrooms, corridors, hallways, living rooms, dining rooms, offices, kitchens, laundries, attached garages used for car parking, and public or common areas, except as permitted in subparagraphs (B) and (C) of this paragraph.

(B) An existing small Type A assisted living facility may install heat detectors in lieu of smoke detectors in kitchens, laundries, and attached garages used for car parking.

(C) An existing small Type A assisted living facility located in a building

constructed to meet the requirements of NFPA 101, Chapter 19, Existing Health Care Occupancies, may install a smoke detection system meeting the requirements of 19.3.4.5.1, Corridors, in NFPA 101, Chapter 19, Existing Health Care Occupancies, in lieu of the requirements in subparagraph (A) of this paragraph.

(3) Alarm control panel.

(A) An existing small Type A assisted living facility must provide a fire alarm control unit, or a fire alarm annunciator providing annunciation of all fire alarm, supervisory, and trouble signals by audible and visible indicators, in a location visible to staff at or near the staff area that is attended 24 hours a day.

(B) An existing small Type A assisted living facility is not required to ensure a fire alarm control unit or fire alarm annunciator is visible to staff if the fire alarm is monitored by devices carried by all staff.

(4) Fire alarm power source.

(A) An existing small Type A assisted living facility must ensure a fire alarm system is powered by a permanently-wired, dedicated branch circuit that is powered from a commercial power source in accordance with NFPA 70.

(B) An existing small Type A assisted living facility must provide a secondary, emergency power source meeting the requirements of NFPA 72.

(b) Fire sprinkler system. In accordance with requirements of 33.2.3.5, Extinguishment Requirements, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies, an existing small Type A assisted living facility may provide:

~~[(1) An existing small Type A assisted living facility may provide one of the following fire sprinkler systems according to the requirements of 33.2.3.5, Extinguishment Requirements, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.]~~

~~(1) [(A)]~~ a [A] fire sprinkler system meeting the requirements of NFPA 13 in accordance with 33.2.3.5.3.3;

~~(2) [(B)]~~ a [A] fire sprinkler system meeting the requirements of NFPA 13R in accordance with 33.2.3.5.3.4; or

~~(3) [(C)]~~ a [A] fire sprinkler system meeting the requirements of NFPA 13D in accordance with 33.2.3.5.3.2.

~~[(2) An existing small Type A assisted living facility must provide supervision of any fire sprinkler system where required by 33.2.3.5, Extinguishment Requirements, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.]~~

(c) Protection of attics. An existing small Type A assisted living facility equipped with a fire sprinkler system must ensure an attic is protected according to the requirements of 33.2.3.5.7, in NFPA 101, Chapter 33, Existing Residential Board

and Care Occupancies, not later than August 31, 2024.

(d) Portable fire extinguishers. An existing small Type A assisted living facility must provide and maintain portable fire extinguishers according to the requirements of NFPA 10.

(1) An existing small Type A assisted living facility must ensure all requirements of NFPA 10 are followed for all extinguisher types, including requirements for location, spacing, mounting heights, monthly inspections by staff, yearly inspections by a licensed agent, any necessary servicing, and hydrostatic testing as recommended by the manufacturer.

(2) An existing small Type A assisted living facility must ensure portable fire extinguishers are located so the travel distance from any point in the facility to an extinguisher is no more than 75 feet.

(3) An existing small Type A assisted living facility must ensure the actual size of any portable fire extinguisher meets the requirements of NFPA 10 for maximum floor area per unit covered, but an extinguisher must be no smaller than the following.

(A) A water-type portable fire extinguisher must have a rating of at least 1-A according to NFPA 10.

(B) All other portable fire extinguishers must have a rating of at least 2-A:5-B:C according to NFPA 10.

(4) An existing small Type A assisted living facility must ensure portable fire extinguishers are installed on hangers or brackets supplied with the extinguisher or mounted in an approved cabinet.

(5) An existing small Type A assisted living facility must ensure a portable fire extinguisher is protected from impact or dislodgement.

(6) An existing small Type A assisted living facility must ensure a portable fire extinguisher is installed at an appropriate height.

(A) A portable fire extinguisher having a gross weight of up to 40 pounds must be installed so the top of the extinguisher is not more than five feet above the floor.

(B) A portable fire extinguisher having a gross weight greater than 40 pounds must be installed so the top of the extinguisher is not more than three and a half feet above the floor.

(C) A portable fire extinguisher must be installed so the clearance between the bottom of the extinguisher and the floor is at least four inches.

(7) A portable extinguisher provided in a hazardous room must be located as close as possible to the door leading from the room and on the latch or knob side of the door.

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 553 LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES
SUBCHAPTER D FACILITY CONSTRUCTION
DIVISION 5 EXISTING SMALL TYPE B ASSISTED LIVING FACILITIES

§553.122. Space Planning and Utilization Requirements for an Existing Small Type B Assisted Living Facility.

(a) Resident bedrooms.

(1) An existing small Type B assisted living facility must ensure a resident bedroom or living unit is not located on a floor that is below finished ground level.

(2) An existing small Type B assisted living facility must ensure bedroom-usable floor space is not less than 100 square feet for a bedroom housing one resident and not less than 80 square feet per resident for a bedroom housing multiple residents, unless otherwise permitted by paragraphs (3) and (4) of this subsection. Portions of a bedroom that are less than 10 feet in the smallest dimension cannot be included in the measurement of bedroom usable floor space, unless approved by the Texas Health and Human Services Commission (HHSC).

(3) An existing small Type B assisted living facility containing individual living units that include living space for the residents, in addition to their bedroom, may reduce the bedroom usable floor space for a bedroom housing multiple residents within a living unit by up to 10 percent of the required bedroom usable floor space, as long as the minimum dimensional criteria are maintained. An existing small Type B assisted living facility must not use this provision in conjunction with the provision permitting the reduction of common social-diversional areas or common dining areas found in subsection (g)(5) of this section.

(4) An existing small Type B assisted living facility must house no more than 50 percent of its licensed resident capacity in bedrooms housing three or more residents. A bedroom must not house more than four residents.

(b) Bedroom windows. An existing small Type B assisted living facility must ensure each bedroom has at least one operable window with outside exposure and meeting the following requirements.

(1) The window sill [~~window sill~~] must be no higher than 44 inches above the floor.

(2) The window must be operable from the inside by all residents occupying the bedroom, [~~from the inside,~~] without the use of tools or special devices.

(3) The total area of all windows in a bedroom must not be less than eight percent of the minimum bedroom usable floor space required by subsection (a)(2) of this section.

(4) An existing bedroom window not meeting these requirements may be continued in service subject to approval by HHSC.

(c) Bedroom furnishings. When a resident does not provide their own furnishings, an existing small Type B assisted living facility must provide the following furnishings for each resident, which must be maintained in good repair:

(1) a bed, including a mattress;

(2) a chair;

(3) a table or dresser; and

(4) private clothes storage space, which must include closable door, and drawer space for clothing and personal belongings.

(d) Arrangement of resident living units or rooms.

(1) An existing small Type B assisted living facility must ensure all resident rooms open on an exit, corridor, living area, or public area.

(2) An existing small Type B assisted living facility must ensure all resident rooms are arranged for convenient resident access to dining and recreation areas.

(e) Staff area. An existing small Type B assisted living facility must provide a staff area on each floor of an existing small Type B assisted living facility and in each separate building containing resident sleeping rooms. An existing small Type B assisted living facility must provide the following at each staff area:

(1) a desk or writing surface;

(2) a telephone; and

(3) a fire alarm control unit or a fire alarm annunciator panel meeting the requirements of §553.125 of this division (relating to Fire Protection Systems Requirements for an Existing Small Type B Assisted Living Facility).

(f) Resident toilet and bathing facilities. An existing small Type B assisted living facility must ensure each resident bedroom is served by a separate, private toilet room, a connecting toilet room, or a general toilet room.

(1) An existing small Type B assisted living facility that houses individuals of more than one gender must provide toilet rooms for each gender, or individual single-occupant toilet rooms for use by any gender.

(2) An existing small Type B assisted living facility must ensure a general toilet room or bathing room is accessible from a corridor or public space.

(3) An existing small Type B assisted living facility must ensure resident toilet and bathing facilities comply with the requirements for resident-use plumbing fixtures according to §553.127 of this division (relating to Mechanical Requirements for an Existing Small Type B Assisted Living Facility).

(g) Resident living areas.

(1) An existing small Type B assisted living facility must provide, in a common area of the facility, social-diversional spaces with appropriate furniture. Examples of social-diversional spaces include living rooms, day rooms, lounges, dens, game rooms, and sunrooms.

(A) An existing small Type B assisted living facility must provide a social-diversional space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of the number of residents or other provisions of this section permitting a reduction in the total minimum social-diversional space.

(B) An existing small Type B assisted living facility must ensure a social-diversional space has one or more exterior windows providing a view of the outside.

(C) An existing small Type B assisted living facility must ensure the total space for social-diversional area provides an area of at least 15 square feet for each resident in the licensed capacity of the facility. No space smaller than 120 square feet in area can be counted toward meeting this requirement.

(2) An existing small Type B assisted living facility must provide a dining area with appropriate furniture.

(A) An existing small Type B assisted living facility must provide a dining space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of the number of residents or other provisions of this section permitting a reduction in the total minimum dining space.

(B) An existing small Type B assisted living facility must ensure a dining space has one or more exterior windows providing a view of the outside.

(C) An existing small Type B assisted living facility must ensure a dining area is accessible from resident living units or bedrooms via a covered path.

(D) An existing small Type B assisted living facility must ensure the total space for dining areas provides an area of at least 15 square feet for each resident in the licensed capacity of the facility. No space smaller than 120 square feet in area can be counted toward meeting this requirement.

(3) An existing small Type B assisted living facility may provide a total living and dining area combined in a single or interconnecting space where the minimum area of the combined space is at least 240 square feet.

(4) An existing small Type B assisted living facility must ensure an escape route through a resident living or dining area is kept clear of obstructions.

(5) Subject to the limitations of paragraphs (1)(A) and (2)(A) of this subsection and subparagraphs (A) and (B) of this paragraph, an existing small Type B assisted living facility containing individual living units may reduce the minimum square footage required by paragraphs (1)(C) and (2)(D) of this subsection for total common social diversional or common dining areas, respectively, by including up to 10 percent of the individual living unit area in the calculation of the total social-

diversional area or total dining area.

(A) The individual living unit area contributed toward total social-diversional space or total dining space must not be counted more than once per living unit but may be split between social-diversional and dining space calculations.

(B) An existing small Type B assisted living facility must not utilize both this paragraph and subsection (a)(3) of this section to reduce both the minimum square footage otherwise required for its common social-diversional or dining areas and the minimum square footage of usable floor space otherwise required in bedrooms housing multiple residents within a living unit.

(h) Storage areas. An existing small Type B assisted living facility must provide sufficient separate storage spaces or areas for at least:

(1) administrative records, office supplies, and other storage needs related to administration;

(2) medications and medical supplies;

(3) equipment supplied by the facility for resident needs, including wheelchairs, walkers, beds, and mattresses;

(4) cleaning supplies, including for janitorial needs;

(5) food;

(6) clean linens and towels, if the facility furnishes linen;

(7) soiled linen, if the facility furnishes linen; and

(8) lawn and maintenance equipment.

(i) Kitchen.

~~[(1) An existing small Type B assisted living facility that prepares food off site or in a separate building must ensure food is served at the proper temperature and transported in a sanitary manner.]~~

~~[(2) An existing small Type B assisted living facility that prepares food on site must provide a kitchen or dietary area meeting the general food service needs of the residents and must ensure that the kitchen:]~~

~~[(A) is equipped to store, refrigerate, prepare, and serve food;]~~

~~[(B) is equipped to clean and sterilize;]~~

~~[(C) provides for refuse storage and removal; and]~~

~~[(D) meets the requirements of the local fire, building, and health codes.]~~

~~[(3)]~~ An existing small Type B assisted living facility must ensure a kitchen uses only residential cooking equipment or, if the kitchen uses commercial cooking

equipment, that the facility protects the kitchen's cooking operations as required in §553.126 of this division (relating to Hazardous Area Requirements for an Existing Small Type B Assisted Living Facility).

§553.125. Fire Protection Systems Requirements for an Existing Small Type B Assisted Living Facility.

(a) Fire alarm and smoke detection system. An existing small Type B assisted living facility must provide a manual fire alarm system meeting the requirements of section 9.6, Fire Detection, Alarm, and Communication Systems, in NFPA 101, Chapter 9, Building Service and Fire Protection Equipment, as modified by this section.

(1) General. An existing small Type B assisted living facility must ensure the operation of any alarm initiating device automatically activates an audible or a visual alarm at the site.

(2) Smoke detectors.

(A) An existing small Type B assisted living facility must install smoke detectors in resident bedrooms, corridors, hallways, living rooms, dining rooms, offices, kitchens, laundries, attached garages used for car parking, and public or common areas, except as permitted in subparagraphs (B) and (C) of this paragraph.

(B) An existing small Type B assisted living facility may install heat detectors in lieu of smoke detectors in kitchens, laundries, and attached garages used for car parking.

(C) An existing small Type B assisted living facility located in a building constructed to meet the requirements of NFPA 101, Chapter 19, Existing Health Care Occupancies, may install a smoke detection system meeting the requirements of 19.3.4.5.1, Corridors, in NFPA 101, Chapter 19, Existing Health Care Occupancies, in lieu of the requirements in subparagraph (A) of this paragraph.

(3) Alarm control panel.

(A) An existing small Type B assisted living facility must provide a fire alarm control unit, or a fire alarm annunciator providing annunciation of all fire alarm, supervisory, and trouble signals by audible and visible indicators, in a location visible to staff at or near the staff area that is attended 24 hours a day.

(B) An existing small Type B assisted living facility is not required to ensure a fire alarm control unit or fire alarm annunciator is visible to staff if the fire alarm is monitored by devices carried by all staff.

(4) Fire alarm power source.

(A) An existing small Type B assisted living facility must ensure a fire alarm system is powered by a permanently-wired, dedicated branch circuit that is powered from a commercial power source in accordance with NFPA 70.

(B) An existing small Type B assisted living facility must provide a secondary, emergency power source meeting the requirements of NFPA 72.

(b) Fire sprinkler system.

(1) In accordance with requirements of 33.2.3.5, Extinguishment Requirements, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies, an existing small Type B assisted living facility must provide: [~~An existing small Type B assisted living facility must provide one of the following fire sprinkler systems according to the requirements of 33.2.3.5, Extinguishment Requirements, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.~~]

(A) a [A] fire sprinkler system meeting the requirements of NFPA 13 in accordance with 33.2.3.5.3.3;

(B) a [A] fire sprinkler system meeting the requirements of NFPA 13R in accordance with 33.2.3.5.3.4; or

(C) a [A] fire sprinkler system meeting the requirements of NFPA 13D in accordance with 33.2.3.5.3.2.

(2) An existing small Type B assisted living facility must ensure a fire sprinkler system is supervised according to 9.7.2, Supervision, in NFPA 101, Chapter 9, Building Service and Fire Protection Equipment.

(c) Protection of attics. An existing small Type B assisted living facility equipped with a fire sprinkler system must ensure an attic is protected according to the requirements of 33.2.3.5.7, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies, not later than August 31, 2024.

(d) Portable fire extinguishers. An existing small Type B assisted living facility must provide and maintain portable fire extinguishers according to the requirements of NFPA 10.

(1) An existing small Type B assisted living facility must ensure all requirements of NFPA 10 are followed for all extinguisher types, including requirements for location, spacing, mounting heights, monthly inspections by staff, yearly inspections by a licensed agent, any necessary servicing, and hydrostatic testing as recommended by the manufacturer.

(2) An existing small Type B assisted living facility must ensure portable fire extinguishers are located so the travel distance from any point in the facility to an extinguisher is no more than 75 feet.

(3) An existing small Type B assisted living facility must ensure the actual size of any portable fire extinguisher meets the requirements of NFPA 10 for maximum floor area per unit covered, but an extinguisher must be no smaller than the following.

(A) A water-type portable fire extinguisher must have a rating of at least 1-A according to NFPA 10; or

(B) Other portable fire extinguishers must have a rating of at least 2-A:5-B:C according to NFPA 10.

(4) An existing small Type B assisted living facility must ensure portable fire extinguishers are installed on hangers or brackets supplied with the extinguisher or mounted in an approved cabinet.

(5) An existing small Type B assisted living facility must ensure a portable fire extinguisher is protected from impact or dislodgement.

(6) An existing small Type B assisted living facility must ensure a portable fire extinguisher is installed at an appropriate height.

(A) A portable fire extinguisher having a gross weight of up to 40 pounds must be installed so the top of the extinguisher is not more than five feet above the floor.

(B) A portable fire extinguisher having a gross weight greater than 40 pounds must be installed so the top of the extinguisher is not more than three and a half feet above the floor.

(C) A portable fire extinguisher must be installed so the clearance between the bottom of the extinguisher and the floor is at least four inches.

(7) A portable extinguisher provided in a hazardous room must be located as close as possible to the door leading from the room and on the latch or knob side of the door.

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 553 LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES
SUBCHAPTER D FACILITY CONSTRUCTION
DIVISION 6 EXISTING LARGE TYPE A ASSISTED LIVING FACILITIES

§553.131. Construction Requirements for an Existing Large Type A Assisted Living Facility.

(a) Structurally sound. An existing large Type A assisted living facility must ensure any building is structurally sound regarding actual or expected dead, live, and wind loads in accordance with applicable building codes, as determined and enforced by local authorities.

(b) Separation of occupancies. An existing large Type A assisted living facility must be separated from other occupancies by a fire barrier having at least a 2-hour fire resistance rating constructed according to the requirements of NFPA 101 and its referenced standards, unless otherwise permitted by paragraphs (1) or (2) of this subsection.

(1) An existing large Type A assisted living facility must be separated from other assisted living facilities, hospitals or nursing facilities. Beginning August 31, 2021, an existing large Type A assisted living facility must be separated from any new occupancy or new use subject to HHSC licensing.

(2) An existing large Type A assisted living facility is not required to be separated from another occupancy not subject to HHSC licensing standards if the two occupancies are so intermingled that construction of a fire barrier having a 2-hour fire resistance rating is impractical and the following conditions are met.

(A) The means of egress, construction, protection, and other safeguards for the entire building must comply with the NFPA 101 requirements for an existing large Type A assisted living facility.

(B) HHSC must be given unrestricted and unannounced access at any reasonable time to inspect the other occupancy type for compliance with the NFPA 101 requirements for an existing large Type A assisted living facility.

(c) Sheathing.

(1) Except as provided in paragraph (3) of this subsection, an existing large Type A assisted living facility must ensure all buildings used by residents are sheathed with materials providing the following fire resistance ratings.

(A) Interior wall and ceiling surfaces must have finished surfaces, substrates, or sheathing with a fire resistance rating of not less than 20 minutes.

(B) Columns, beams, girders, or trusses that are not enclosed within walls or ceilings must be encased in materials having a fire resistance rating of not less than 20 minutes.

(2) A sprinkler system does not substitute for this minimum sheathing requirement under paragraph (1) of this subsection.

(3) A building constructed to meet the minimum building construction type requirements of 19.1.6, Minimum Construction Requirements, in NFPA 101, Chapter 19, Existing Health Care Occupancies, is not also required to be sheathed.

(d) Interior finish. An existing large Type A assisted living facility must ensure interior wall and ceiling finish materials meet the requirements of 33.3.3.3.2, Interior Wall and Ceiling Finish, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

(e) Vertical openings. An existing large Type A assisted living facility must ensure vertical openings are protected according to the requirements of 33.3.3.1, Protection of Vertical Openings, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

§553.132. Space Planning and Utilization Requirements for an Existing Large Type A Assisted Living Facility.

(a) Resident bedrooms.

(1) An existing large Type A assisted living facility must ensure a resident bedroom or living unit is not located on a floor that is below finished ground level.

(2) An existing large Type A assisted living facility must ensure bedroom usable floor space is not less than 80 square feet for a bedroom housing one resident and not less than 60 square feet per resident for a bedroom housing multiple residents, unless otherwise permitted by paragraphs (3) and (4) of this subsection. Portions of a bedroom that are less than eight feet in the smallest dimension cannot be included in the measurement of bedroom usable floor space, unless approved by the Texas Health and Human Services Commission (HHSC).

(3) An existing large Type A assisted living facility containing individual living units that include living space for the residents, in addition to their bedroom, may reduce the bedroom usable floor space for a bedroom housing multiple residents within a living unit by up to 10 percent of the required bedroom usable floor space, as long as the minimum dimensional criteria are maintained. An existing large Type A assisted living facility must not use this provision in conjunction with the provision permitting the reduction of common social-diversional areas or common dining areas found in subsection (g)(6) of this section.

(4) An existing large Type A assisted living facility must house no more than 50 percent of its licensed resident capacity in bedrooms housing three or more residents. A bedroom must not house more than four residents.

(b) Bedroom windows. An existing large Type A assisted living facility must ensure each bedroom has at least one operable window with outside exposure and meeting the following requirements.

(1) The window sill [~~window sill~~] must be no higher than 44 inches above the

floor.

(2) The window must be operable from the inside by a resident occupying the bedroom, [~~from the inside,~~] without the use of tools or special devices.

(3) The total area of all windows in a bedroom must not be less than eight percent of the minimum bedroom usable floor space according to the requirements of subsection (a)(2) of this section.

(4) An existing bedroom window not meeting these requirements may be continued in service, subject to approval by HHSC.

(c) Bedroom furnishings. When a resident does not provide their own furnishings, an existing large Type A assisted living facility must provide the following furnishings for each resident, which must be maintained in good repair:

(1) a bed, including a mattress;

(2) a chair;

(3) a table or dresser; and

(4) private clothes storage space, which must have closable doors, and drawer space for clothing and personal belongings.

(d) Arrangement of resident living units or rooms.

(1) An existing large Type A assisted living facility must ensure all resident rooms open on an exit, corridor, living area, or public area.

(2) An existing large Type A assisted living facility must ensure a resident room is arranged for convenient resident access to dining and recreation areas.

(e) Staff area. An existing large Type A assisted living facility must provide a staff area on each floor of an existing large Type A assisted living facility and in each separate building containing resident sleeping rooms, except as permitted under paragraph (1) of this subsection.

(1) An existing large Type A assisted living facility that is not more than two stories in height and is composed of separate buildings grouped together and connected by covered walks, is not required to provide a staff area on each floor or in each building, provided that a staff area is located not more than 200 feet walking distance from the farthest resident living unit.

(2) An existing large Type A assisted living facility must provide the following at each staff area:

(A) a desk or writing surface;

(B) a telephone; and

(C) a fire alarm control unit or a fire alarm annunciator panel meeting the

requirements of §553.135 of this division (relating to Fire Protection Systems Requirements for an Existing Large Type A Assisted Living Facility).

(f) Resident toilet and bathing facilities. An existing large Type A assisted living facility must ensure each resident bedroom is served by a separate private toilet room, a connecting toilet room, or a general toilet room.

(1) An existing large Type A assisted living facility that houses individuals of more than one gender must provide toilet rooms for each gender, or individual single-occupant toilet rooms for use by any gender.

(2) An existing large Type A assisted living facility must ensure a general toilet room or bathing room is accessible from a corridor or public space.

(3) An existing large Type A assisted living facility must ensure resident toilet and bathing facilities comply with the requirements for resident-use plumbing fixtures according to §553.137 of this division (relating to Mechanical Requirements for an Existing Large Type A Assisted Living Facility).

(g) Resident living areas.

(1) An existing large Type A assisted living facility must provide, in a common area of the facility, social-diversional spaces with appropriate furniture. Examples of social-diversional spaces include living rooms, day rooms, lounges, dens, game rooms, and sunrooms.

(A) An existing large Type A assisted living facility must provide a social-diversional space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of the number of residents or other provisions of this section permitting a reduction in the total minimum social-diversional space.

(B) An existing large Type A assisted living facility must ensure a social-diversional space has one or more exterior windows providing a view of the outside.

(C) An existing large Type A assisted living facility must ensure the total space for social-diversional areas is provided on a sliding scale according to the following table. No space smaller than 120 square feet in area can be counted toward meeting this requirement.

Figure: 26 TAC §553.132(g)(1)(C) (No Change)

(2) An existing large Type A assisted living facility must provide a dining area with appropriate furniture.

(A) An existing large Type A assisted living facility must provide a dining space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of the number of residents or other provisions of this section permitting a reduction in the total minimum dining space.

(B) An existing large Type A assisted living facility must ensure a dining

space has one or more exterior windows providing a view of the outside.

(C) An existing large Type A assisted living facility must ensure a dining area is accessible from resident living units or bedrooms via a covered path.

(D) An existing large Type A assisted living facility must ensure the total space for dining areas is provided on a sliding scale according to the following table. No space smaller than 120 square feet in area can be counted toward meeting this requirement.

Figure: 26 TAC §553.132(g)(2)(D) (No change)

(3) An existing large Type A assisted living facility may provide a total living and dining area combined in a single or interconnecting space where the minimum area of the combined space is at least 240 square feet.

(4) For calculation purposes, where a means of egress passes through a living or dining area, an existing large Type A assisted living facility must deduct a pathway, equal to the minimum corridor width, according to §553.133 of this division (relating to Means of Egress Requirements for an Existing Large Type A Assisted Living Facility), from the measured area of the space.

(5) An existing large Type A assisted living facility must ensure a means of egress through a resident living or dining area is kept clear of obstructions, except as permitted by NFPA 101.

(6) Subject to the limitations of paragraphs (1)(A) and (2)(A) of this subsection and subparagraphs (A) and (B) of this paragraph, an existing large Type A assisted living facility containing individual living units may reduce the minimum square footage required by paragraphs (1)(C) and (2)(D) of this subsection for total common social-diversional or common dining areas, respectively, by including up to 10 percent of the individual living unit area in the calculation of the total social-diversional area or total dining area.

(A) The individual living unit area contributed toward total social-diversional space or total dining space must not be counted more than once per living unit but may be split between social-diversional and dining space calculations.

(B) An existing large Type A assisted living facility must not utilize both this paragraph and subsection (a)(3) of this section to reduce both the minimum square footage otherwise required for its common social-diversional or dining areas and the minimum square footage of usable floor space otherwise required in bedrooms housing multiple residents within a living unit.

(h) Storage areas. An existing large Type A assisted living facility must provide sufficient separate storage spaces or areas for at least:

(1) administrative records, office supplies, and other storage needs related to administration;

(2) medications and medical supplies;

(3) equipment supplied by the facility for resident needs, including wheelchairs, walkers, beds, and mattresses;

(4) cleaning supplies, including for janitorial needs;

(5) food;

(6) clean linens and towels, if the facility furnishes linen;

(7) soiled linen, if the facility furnishes linen; and

(8) lawn and maintenance equipment.

(i) General kitchen.

~~[(1) An existing large Type A assisted living facility that prepares food off site or in a separate building must ensure food is served at the proper temperature and transported in a sanitary manner.]~~

~~[(2) An existing large Type A assisted living facility must ensure a kitchen meets the requirements of the local fire, building, and health codes.]~~

(1) ~~[(3)]~~ An existing large Type A assisted living facility that prepares food onsite ~~[on-site]~~ must provide a kitchen or dietary area that includes ~~[to meet the general food service needs of the residents and must include]~~ space for ~~[the following]~~:

(A) storage, refrigeration, preparation, and serving food;

(B) dish and utensil cleaning, which includes:

(i) a three-compartment sink large enough to immerse pots and pans;
and

(ii) a mechanical dishwasher for washing and sanitizing dishes;

(C) a food preparation sink;

(D) a handwashing station in every food preparation area with a supply of hot and cold water, soap, a towel dispenser and a waste receptacle;

(E) a handwashing lavatory that is readily accessible to every dish room area;

(F) refuse storage and removal;

(G) floor drains in the kitchen and dishwashing areas, unless the facility was licensed before January 6, 2014, and the facility can keep the floor clean ~~[, and]~~

~~[(H) a grease trap, if required by local authorities.]~~

(2) ~~[(4)]~~ An existing large Type A assisted living facility must ensure a kitchen is designed so that room temperature, at peak load or in the summer, does not

exceed 85 degrees Fahrenheit measured throughout the room at five feet above the floor.

(3) [~~(5)~~] An existing large Type A assisted living facility must ensure the volume of supply air provided takes into account the large quantities of air that may be exhausted at the range hood and dishwashing area.

(4) [~~(6)~~] An existing large Type A assisted living facility must provide a supply of hot and cold water.

(A) Hot water for sanitizing purposes must be 180 degrees Fahrenheit.

(B) When chemical sanitizers are used, hot water must meet the manufacturer's suggested temperature.

(5) [~~(7)~~] An existing large Type A assisted living facility must maintain a separation between soiled and clean dish areas.

(6) [~~(8)~~] An existing large Type A assisted living facility must maintain a separation of air flow between soiled and clean dish areas.

(j) Kitchen restrooms.

(1) An existing large Type A assisted living facility must provide a restroom facility for kitchen staff, including a lavatory, except as described in paragraph (2) of this subsection.

(A) The restroom facility must be directly accessible to kitchen staff without traversing resident-use areas.

(B) The restroom must open into a service corridor or vestibule and not open directly into the kitchen.

(2) An existing large Type A assisted living facility licensed before January 6, 2014, may provide a staff restroom that may be located outside the kitchen area.

(k) Kitchen janitorial facility.

(1) An existing large Type A assisted living facility must provide janitorial facilities exclusively for the kitchen and located in the kitchen area, except as described in paragraph (2) of this subsection.

(2) An existing large Type A assisted living facility licensed before January 6, 2014, must provide a janitorial facility for the kitchen. The janitorial facility may be located outside the kitchen if sanitary procedures are used to reduce the possibility of cross-contamination.

(3) An existing large Type A assisted living facility must provide a garbage can or cart washing area with a floor drain and a supply of hot water. The garbage can or cart washing area may be in the interior or on the exterior of the facility.

(4) An existing large Type A assisted living facility must provide floor drains in

the kitchen and dishwashing areas unless the facility was licensed before January 6, 2014, and the facility can keep the floors clean.

~~[(5) If required by local authorities, an existing large Type A assisted living facility must provide a grease trap.]~~

(l) Finishes.

(1) An existing large Type A assisted living facility must provide non-absorbent, smooth finishes or surfaces on all kitchen floors, walls and ceilings.

(2) An existing large Type A assisted living facility must provide non-absorbent, smooth, cleanable finishes on counter surfaces and all cabinet surfaces.

(3) An existing large Type A assisted living facility must ensure surfaces are capable of being routinely cleaned and sanitized to maintain a healthful environment.

(m) Vision panels in communicating doors.

(1) An existing large Type A assisted living facility must ensure a door between a kitchen and a dining area, serving area, or resident-use area, is provided with a vision panel with fixed safety glass. Where the door is a required fire door or is located in a fire barrier or other fire resistance-rated enclosure, the vision panel, including the glazing and the frame, must meet the requirements of NFPA 101.

(2) Existing doors between kitchens and adjacent spaces that are not provided with vision panels may be continued in service, subject to approval by HHSC.

(n) Auxiliary serving kitchens.

(1) An existing large Type A assisted living facility must ensure an auxiliary serving kitchen is equipped to maintain required food temperatures.

(2) An existing large Type A assisted living facility must ensure an auxiliary serving kitchen is equipped with a handwashing lavatory meeting the requirements of this section.

(3) An existing large Type A assisted living facility must ensure all surfaces in an auxiliary serving kitchen meet the requirements for finishes in this section.

(o) Protection of cooking operations.

(1) An existing large Type A assisted living facility must protect cooking facilities using commercial or residential cooking equipment for meal preparation as commercial cooking operations, according to the requirements for commercial cooking equipment in §553.136 of this division (relating to Hazardous Area Requirements for an Existing Large Type A Assisted Living Facility).

(2) The following commercial or residential cooking equipment used only for reheating, and not for meal preparation, is not required to comply with the requirements of §553.136 of this division:

(A) microwave ovens;

(B) hot plates; or

(C) toasters.

(p) Food storage areas.

(1) An existing large Type A assisted living facility must provide a food storage area large enough to consistently maintain a four-day minimum supply of non-perishable food. A food storage area may be located away from the food preparation area as long as there is space adjacent to the kitchen for necessary daily usage.

(2) An existing large Type A assisted living facility must provide dollies, racks, pallets, wheeled containers, or shelving, so that food is not stored on the floor.

(A) An existing large Type A assisted living facility must ensure shelves are adjustable wire type shelving.

(B) An existing large Type A assisted living facility licensed before January 6, 2014, may use wood shelves provided the shelves are sealed and clean.

(3) An existing large Type A assisted living facility must provide non-absorbent finishes or surfaces on all floors and walls in food storage areas.

(4) An existing large Type A assisted living facility must provide effective ventilation in dry food storage areas to ensure positive air circulation.

(5) An existing large Type A assisted living facility must ensure the maximum room temperature in a food storage area does not exceed 85 degrees Fahrenheit at any time, when measured at the highest food storage level, but not less than five feet above the floor.

(q) Laundry and linen services.

(1) An existing large Type A assisted living facility that co-mingles and processes laundry onsite [~~on-site~~] in a central location, regardless of the type of laundry equipment used, must ensure a laundry area:

(A) is separated from the assisted living building by a fire barrier having a one-hour fire resistance rating, and this separation must extend from the floor to the floor or roof above;

(B) is protected throughout by a fire sprinkler system;

(C) has access doors that open to the exterior or to an interior non-resident use area, such as a vestibule or service corridor; and

(D) is provided with:

(i) a soiled linen receiving, holding, and sorting room with a floor drain

and forced exhaust to the exterior that;

(I) must always operate when soiled linen is held in this area; and

(II) may be combined with the washer section;

(ii) a general laundry work area that is separated by partitioning a washer section and a dryer section;

(iii) a storage area for laundry supplies;

(iv) a folding area;

(v) an adequate air supply and ventilation for staff comfort without having to rely on opening a door that is part of the fire barrier separation required by subparagraph (1)(A) of this subsection; and

(vi) provisions to exhaust heat from dryers and to separate dryer make-up air from the habitable work areas of the laundry.

(2) If linen is processed off site, the facility must provide:

(A) a soiled linen holding room with adequate forced exhaust ducted to the exterior; and

(B) a clean linen receiving, holding, inspection, sorting or folding, and storage room.

(3) An existing large Type A assisted living facility must ensure a laundry area for resident-use meets the following requirements.

(A) An existing large Type A assisted living facility must ensure only residential type washers and dryers are provided in a laundry area for resident-use.

(B) When more than three washers and three dryers are provided in one laundry area for resident use, the area must be:

(i) protected throughout by a fire sprinkler system; or

(ii) separated from the facility by a fire barrier having a one-hour fire resistance rating.

§553.135. Fire Protection Systems Requirements for an Existing Large Type A Assisted Living Facility.

(a) Fire alarm and smoke detection system. An existing large Type A assisted living facility must provide a manual fire alarm system meeting the requirements of 9.6, Fire Detection, Alarm, and Communication Systems, in NFPA 101, Chapter 9, Building Service and Fire Protection Equipment, as modified by this section.

(1) General. An existing large Type A assisted living facility must ensure the operation of any alarm initiating device automatically activates an audible or a visual alarm at the site.

(2) Smoke detectors.

(A) An existing large Type A assisted living facility must install smoke detectors in resident bedrooms, corridors, hallways, living rooms, dining rooms, offices, kitchens, laundries, attached garages used for car parking, and public or common areas, except as permitted in subparagraphs (B) - (D) of this paragraph.

(B) An existing large Type A assisted living facility may install heat detectors in lieu of smoke detectors in kitchens, laundries, and attached garages used for car parking.

(C) An existing large Type A assisted living facility located in a building constructed to meet the requirements of NFPA 101, Chapter 19, Existing Health Care Occupancies, may install a smoke detection system meeting the requirements of 19.3.4.5.1, Corridors, in NFPA 101, Chapter 19, Existing Health Care Occupancies, in lieu of the requirements found in subparagraphs (A) and (B) of this paragraph.

(D) An existing large Type A assisted living facility comprised of buildings containing living units with independent cooking equipment must additionally have:

(i) a smoke detector installed in all ~~in~~ resident bedrooms, corridors, hallways, living rooms, dining rooms, offices, kitchens and laundries within the living unit, that sounds an alarm only within the living unit; and

(ii) a heat detector installed in the kitchen within the living unit that activates the general alarm.

(3) Alarm control panel.

(A) An existing large Type A assisted living facility must provide a fire alarm control unit, or a fire alarm annunciator providing annunciation of all fire alarm, supervisory, and trouble signals by audible and visible indicators, in a location visible to staff at or near the staff area that is attended 24 hours a day.

(B) An existing large Type A assisted living facility is not required to ensure a fire alarm control unit or fire alarm annunciator is visible to staff if the fire alarm is monitored by devices carried by all staff.

(C) An existing large Type A assisted living facility must ensure a fire alarm panel indicates each floor and smoke compartment, as applicable, as a separate zone. Each zone must provide an alarm and trouble indication. When all alarm initiating devices are addressable and the status of each device is identified on the fire alarm panel, zone indication is not required.

(4) Fire alarm power source.

(A) An existing large Type A assisted living facility must ensure a fire alarm system is powered by a permanently-wired, dedicated branch circuit that is powered from a commercial power source in accordance with NFPA 70.

(B) An existing large Type A assisted living facility must provide a secondary, emergency power source meeting the requirements of NFPA 72.

(5) Emergency forces notification. An existing large Type A assisted living facility not equipped with a fire alarm system that automatically notifies emergency forces must immediately notify the fire department by telephone or other means.

(b) Fire sprinkler system.

(1) An existing large Type A assisted living facility may provide a fire sprinkler system meeting the requirements of NFPA 13 in accordance with 33.3.3.5.1, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

(2) An existing large Type A assisted living facility located in a building that is four or fewer stories in height may provide a fire sprinkler system meeting the requirements of NFPA 13R in accordance with 33.3.3.5.1.1, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

(3) An existing large Type A assisted living facility located in a high-rise building must be protected throughout by an approved, supervised automatic fire sprinkler system meeting the requirements of NFPA 13 according to 33.3.3.5.3, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies.

(c) Protection of attics. An existing large Type A assisted living facility equipped with a fire sprinkler system must ensure an attic is protected according to the requirements of 33.3.3.5.4, in NFPA 101, Chapter 33, Existing Residential Board and Care Occupancies, not later than August 31, 2024.

(d) Portable fire extinguishers. An existing large Type A assisted living facility must provide and maintain portable fire extinguishers according to the requirements of NFPA 10.

(1) An existing large Type A assisted living facility must ensure all requirements of NFPA 10 are followed for all extinguisher types, including requirements for location, spacing, mounting heights, monthly inspections by staff, yearly inspections by a licensed agent, any necessary servicing, and hydrostatic testing as recommended by the manufacturer.

(2) An existing large Type A assisted living facility must ensure portable fire extinguishers are located in resident corridors so the travel distance from any point in the facility to an extinguisher is no more than 75 feet.

(3) An existing large Type A assisted living facility must ensure the actual size of any portable fire extinguisher meets the requirements of NFPA 10 for maximum floor area per unit covered, but an extinguisher must be no smaller than the following.

(A) A water-type portable fire extinguisher must have a rating of at least 1-A according to NFPA 10.

(B) All other portable fire extinguishers must have a rating of at least 2-A:5-

B:C according to NFPA 10.

(C) A facility must provide at least one approved 20-B:C portable fire extinguisher in each laundry, kitchen and walk-in mechanical room.

(4) An existing large Type A assisted living facility must ensure portable fire extinguishers are installed on hangers or brackets supplied with the extinguisher or mounted in an approved cabinet.

(5) An existing large Type A assisted living facility must ensure a portable fire extinguisher is protected from impact or dislodgement.

(6) An existing large Type A assisted living facility must ensure a portable fire extinguisher is installed at an appropriate height.

(A) A portable fire extinguisher having a gross weight of up to 40 pounds must be installed so the top of the extinguisher is not more than five feet above the floor.

(B) A portable fire extinguisher having a gross weight greater than 40 pounds must be installed so the top of the extinguisher is not more than three and a half feet above the floor.

(C) A portable fire extinguisher must be installed so the clearance between the bottom of the extinguisher and the floor is at least four inches.

(7) A portable extinguisher provided in a hazardous room must be located as close as possible to the exit access door leading from the room and on the latch or knob side of the door.

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 553 LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES
SUBCHAPTER D FACILITY CONSTRUCTION
DIVISION 7 EXISTING LARGE TYPE B ASSISTED LIVING FACILITIES

§553.142. Space Planning and Utilization Requirements for an Existing Large Type B Assisted Living Facility.

(a) Resident bedrooms.

(1) An existing large Type B assisted living facility must ensure a resident bedroom or living unit is not located on a floor that is below finished ground level.

(2) An existing large Type B assisted living facility must ensure bedroom usable floor space is not less than 100 square feet for a bedroom housing one resident and not less than 80 square feet per resident for a bedroom housing multiple residents, unless otherwise permitted by paragraphs (3) and (4) of this subsection. Portions of a bedroom that are less than 10 feet in the smallest dimension cannot be included in the measurement of bedroom usable floor space, unless approved by the Texas Health and Human Services Commission (HHSC).

(3) An existing large Type B assisted living facility containing individual living units that include living space for the residents, in addition to their bedroom, may reduce the bedroom usable floor space for a bedroom housing multiple residents within a living unit by up to 10 percent of the required bedroom usable floor space, as long as the minimum dimensional criteria are maintained. An existing large Type B assisted living facility must not use this provision in conjunction with the provision permitting the reduction of common social-diversional areas or common dining areas found in subsection (g)(6) of this section.

(4) An existing large Type B assisted living facility must house no more than 50 percent of its licensed resident capacity in bedrooms housing three or more residents. A bedroom must not house more than four residents.

(b) Bedroom windows. An existing large Type B assisted living facility must ensure each bedroom has at least one operable window, with outside exposure, that meets the following requirements.

(1) The windowsill [~~window sill~~] must be no higher than 44 inches above the floor.

(2) The window must be operable from the inside by a resident occupying the bedroom, [~~from the inside,~~] without the use of tools or special devices.

(3) The total area of all windows in a bedroom must not be less than eight percent of the minimum bedroom usable floor space required by subsection (a)(2) of this section.

(4) An existing bedroom window that does not meet these requirements may be continued in service, subject to approval by HHSC.

(c) Bedroom furnishings. When a resident does not provide their own furnishings, an existing large Type B assisted living facility must provide the following furnishings for each resident, which must be maintained in good repair:

(1) a bed, including a mattress;

(2) a chair;

(3) a table or dresser; and

(4) private clothes storage space, which must have closable doors, and drawer space for clothing and personal belongings.

(d) Arrangement of resident living units or rooms.

(1) An existing large Type B assisted living facility must ensure all resident rooms open on an exit, corridor, living area, or public area.

(2) An existing large Type B assisted living facility must ensure all resident rooms are arranged for convenient resident access to dining and recreation areas.

(e) Staff area. An existing large Type B assisted living facility must provide a staff area on each floor of an existing large Type B assisted living facility and in each separate building containing resident sleeping rooms. An existing large Type B assisted living facility must provide the following at each staff area:

(1) a desk or writing surface;

(2) a telephone; and

(3) a fire alarm control unit or a fire alarm annunciator panel meeting the requirements of §553.145 of this division (relating to Fire Protection Systems Requirements for an Existing Large Type B Assisted Living Facility).

(f) Resident toilet and bathing facilities. An existing large Type B assisted living facility must ensure each resident bedroom is served by a separate private toilet room, a connecting toilet room, or a general toilet room.

(1) An existing large Type B assisted living facility that houses individuals of more than one gender must provide toilet rooms for each gender, or individual single-occupant toilet rooms for use by any gender.

(2) An existing large Type B assisted living facility must ensure a general toilet room or bathing room is accessible from a corridor or public space.

(3) An existing large Type B assisted living facility must ensure resident toilet and bathing facilities comply with the requirements for resident-use plumbing fixtures according to §553.147 of this division (relating to Mechanical Requirements for an Existing Large Type B Assisted Living Facility).

(g) Resident living areas.

(1) An existing large Type B assisted living facility must provide, in a common area of the facility, social-diversional spaces with appropriate furniture. Examples of social-diversional spaces include living rooms, day rooms, lounges, dens, game rooms, and sunrooms.

(A) An existing large Type B assisted living facility must provide a social-diversional space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of number of residents or other provisions of this section permitting a reduction in the total minimum social-diversional space.

(B) An existing large Type B assisted living facility must ensure a social-diversional space has one or more exterior windows providing a view of the outside.

(C) An existing large Type B assisted living facility must ensure the total space for social-diversional areas is provided on a sliding scale according to the following table. No space smaller than 120 square feet in area can be counted toward meeting this requirement.

Figure: 26 TAC §553.142(g)(1)(C) (No Change)

(2) An existing large Type B assisted living facility must provide a dining area with appropriate furniture.

(A) An existing large Type B assisted living facility must provide a dining space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of the number of residents or other provisions of this section permitting a reduction in the total minimum dining space.

(B) An existing large Type B assisted living facility must ensure a dining space has one or more exterior windows providing a view of the outside.

(C) An existing large Type B assisted living facility must ensure a dining area is accessible from resident living units or bedrooms via a covered path.

(D) An existing large Type B assisted living facility must ensure the total space for dining areas is provided on a sliding scale according to the following table. No space smaller than 120 square feet in area can be counted toward meeting this requirement.

Figure: 26 TAC §553.142(g)(2)(D) (No Change)

(3) An existing large Type B assisted living facility may provide a total living and dining area combined in a single or interconnecting space where the minimum area of the combined space is at least 240 square feet.

(4) For calculation purposes, where a means of egress passes through a living or dining area, an existing large Type B assisted living facility must deduct a pathway, equal to the minimum corridor width, according to §553.143 of this division (relating to Means of Egress Requirements for an Existing Large Type B Assisted Living Facility), from the measured area of the space.

(5) An existing large Type B assisted living facility must ensure a means of egress through a resident living or dining area is kept clear of obstructions, except as permitted by NFPA 101.

(6) Subject to the limitations of paragraphs (1)(A) and (2)(A) of this subsection and subparagraphs (A) and (B) of this paragraph, an existing large Type B assisted living facility containing individual living units may reduce the minimum square footage required by paragraphs (1)(C) and (2)(D) of this subsection for total common social-diversional or common dining areas, respectively, by including up to 10 percent of the individual living unit area in the calculation of the total social-diversional area or total dining area.

(A) The individual living unit area contributed toward total social-diversional space or total dining space must not be counted more than once per living unit but may be split between social-diversional and dining space calculations.

(B) An existing large Type B assisted living facility must not utilize both this paragraph and subsection (a)(3) of this section to reduce both the minimum square footage otherwise required for its common social-diversional or dining areas and the minimum square footage of usable floor space otherwise required in bedrooms housing multiple residents within a living unit.

(h) Storage areas. An existing large Type B assisted living facility must provide sufficient separate storage spaces or areas for at least:

(1) administrative records, office supplies, and other storage needs related to administration;

(2) medications and medical supplies;

(3) equipment supplied by the facility for resident needs, including wheelchairs, walkers, beds, and mattresses;

(4) cleaning supplies, including for janitorial needs;

(5) food;

(6) clean linens and towels, if the facility furnishes linen;

(7) soiled linen, if the facility furnishes linen; and

(8) lawn and maintenance equipment.

(i) General kitchen.

~~[(1) An existing large Type B assisted living facility that prepares food off site or in a separate building must ensure food is served at the proper temperature and transported in a sanitary manner.]~~

~~[(2) An existing large Type B assisted living facility must ensure a kitchen meets the requirements of the local fire, building, and health codes.]~~

(1) ~~[(3)]~~ An existing large Type B assisted living facility that prepares food onsite ~~[on-site]~~ must provide a kitchen or dietary area that includes ~~[to meet the general food service needs of the residents and must include]~~ space for:

- (A) storage, refrigeration, preparation, and serving of food;
- (B) dish and utensil cleaning, which includes:
 - (i) a three compartment sink large enough to immerse pots and pans;
 - and
 - (ii) a mechanical dishwasher for washing and sanitizing dishes;
- (C) a food preparation sink;
- (D) a handwashing station in every food preparation area with a supply of hot and cold water, soap, a towel dispenser, and a waste receptacle;
- (E) a handwashing lavatory that is readily accessible to every dish room area;
- (F) refuse storage and removal; and

(G) floor drains in the kitchen and dishwashing areas, unless the facility was licensed before January 6, 2014, and the facility can keep the floor clean. ~~[; and]~~

~~[(H) a grease trap, if required by local authorities.]~~

(2) ~~[(4)]~~ An existing large Type B assisted living facility must ensure a kitchen is designed so that room temperature, at peak load or in the summer, does not exceed 85 degrees Fahrenheit, measured throughout the room at five feet above the floor.

(3) ~~[(5)]~~ An existing large Type B assisted living facility must ensure the volume of supply air provided takes into account the large quantities of air that may be exhausted at the range hood and dishwashing area.

(4) ~~[(6)]~~ An existing large Type B assisted living facility must provide a supply of hot and cold water.

(A) Hot water for sanitizing purposes must be 180 degrees Fahrenheit.

(B) When chemical sanitizers are used, hot water must meet the manufacturer's suggested temperature.

(5) ~~[(7)]~~ An existing large Type B assisted living facility must maintain a separation between soiled and clean dish areas.

(6) ~~[(8)]~~ An existing large Type B assisted living facility must maintain a separation of air flow between soiled and clean dish areas.

(j) Kitchen restrooms.

(1) An existing large Type B assisted living facility must provide a restroom facility for kitchen staff, including a lavatory, except as described in paragraphs (2) and (3) of this subsection.

(A) The restroom facility must be directly accessible to kitchen staff without traversing resident-use areas.

(B) The restroom must open into a service corridor or vestibule and not open directly into the kitchen.

(2) An existing large Type B assisted living facility licensed before January 6, 2014, may provide a staff restroom located outside the kitchen area.

(3) An existing large Type B assisted living facility must ensure a kitchen serving a neighborhood or household provides a restroom accessible to kitchen staff that is in close proximity to the kitchen.

(k) Kitchen janitorial facility.

(1) An existing large Type B assisted living facility must provide janitorial facilities exclusively for the kitchen and located in the kitchen area, except as described in paragraphs (2) and (3) of this subsection.

(2) An existing large Type B assisted living facility licensed before January 6, 2014, must provide a janitorial facility for the kitchen. The janitorial facility may be located outside the kitchen if sanitary procedures are used to reduce the possibility of cross-contamination.

(3) An existing large Type B assisted living facility must ensure a kitchen serving a neighborhood or household provides a janitorial facility exclusively for the kitchen that is close to the kitchen.

(4) An existing large Type B assisted living facility must provide a garbage can or cart washing area with a floor drain and a supply of hot water. The garbage can or cart washing area may be in the interior or on the exterior of the facility.

(5) An existing large Type B assisted living facility must provide floor drains in the kitchen and dishwashing areas, unless the facility was licensed before January 6, 2014, and the facility can keep the floors clean.

~~[(6) If required by local authorities, an existing large Type B assisted living facility must provide a grease trap.]~~

(l) Finishes.

(1) An existing large Type B assisted living facility must provide non-absorbent, smooth finishes or surfaces on all kitchen floors, walls, and ceilings.

(2) An existing large Type B assisted living facility must provide non-absorbent, smooth, cleanable finishes on counter surfaces and all cabinet surfaces.

(3) An existing large Type B assisted living facility must ensure surfaces are

capable of being routinely cleaned and sanitized to maintain a healthful environment.

(m) Vision panels in communicating doors.

(1) An existing large Type B assisted living facility must ensure a door between a kitchen and a dining, serving, or resident-use area is provided with a vision panel with fixed safety glass. Where the door is a required fire door or is in a fire barrier or other fire resistance-rated enclosure, the vision panel, including the glazing and the frame, must meet the requirements of NFPA 101.

(2) Existing doors between kitchens and adjacent spaces that are not provided with vision panels may be continued in service subject to approval by HHSC.

(n) Auxiliary serving kitchens.

(1) An existing large Type B assisted living facility must ensure an auxiliary serving kitchen is equipped to maintain required food temperatures.

(2) An existing large Type B assisted living facility must ensure an auxiliary serving kitchen is equipped with a handwashing lavatory meeting the requirements of this section.

(3) An existing large Type B assisted living facility must ensure all surfaces in an auxiliary serving kitchen meet the requirements for finishes in this section.

(o) Protection of cooking operations.

(1) An existing large Type B assisted living facility must protect cooking facilities according to the requirements in §553.146 of this division (relating to Hazardous Area Requirements for an Existing Large Type B Assisted Living Facility) except as provided for in paragraph (3) of this subsection.

(2) The following commercial or residential cooking equipment used only for reheating, and not for meal preparation, is not required to comply with the requirements of §553.146 of this division:

(A) microwave ovens;

(B) hot plates; or

(C) toasters.

(3) A facility providing a kitchen serving a neighborhood or household may continue to operate the kitchen without modification subject to approval by HHSC.

(p) Food storage areas.

(1) An existing large Type B assisted living facility must provide a food storage area large enough to consistently maintain a four-day minimum supply of non-perishable food. A food storage area may be located away from the food preparation area as long as there is space adjacent to the kitchen for necessary

daily usage.

(2) An existing large Type B assisted living facility must provide dollies, racks, pallets, wheeled containers, or shelving so that food is not stored on the floor.

(A) An existing large Type B assisted living facility must ensure shelves are adjustable wire type shelving.

(B) An existing large Type B assisted living facility licensed before January 6, 2014, may use wood shelves provided the shelves are sealed and clean.

(3) An existing large Type B assisted living facility must provide non-absorbent finishes or surfaces on all floors and walls in food storage areas.

(4) An existing large Type B assisted living facility must provide effective ventilation in dry food storage areas to ensure positive air circulation.

(5) An existing large Type B assisted living facility must ensure the maximum room temperature in a food storage area does not exceed 85 degrees Fahrenheit at any time when measured at the highest food storage level, but not less than five feet above the floor.

(q) Laundry and linen services.

(1) An existing large Type B assisted living facility that co-mingles and processes laundry onsite [~~on-site~~] in a central location, regardless of the type of laundry equipment used, must ensure a laundry area:

(A) is separated from the assisted living building by a fire barrier having a one-hour fire resistance rating, which must extend from the floor to the floor or roof above:

(B) is protected throughout by a fire sprinkler system;

(C) has access doors that open to the exterior or to an interior non-resident use area, such as a vestibule or service corridor; and

(D) is provided with:

(i) a soiled linen receiving, holding, and sorting room with a floor drain and forced exhaust to the exterior which;

(I) must always operate when soiled linen is held in this area; and

(II) may be combined with the washer section;

(ii) a general laundry work area that is separated by partitioning a washer section and a dryer section with;

(iii) a storage area for laundry supplies;

(iv) a folding area;

(v) an adequate air supply and ventilation for staff comfort without having to rely on opening a door that is part of the fire barrier separation required by paragraph (1)(A) of this subsection; and

(vi) provisions to exhaust heat from dryers and to separate dryer make-up air from the habitable work areas of the laundry.

(2) If linen is processed off site, the facility must provide:

(A) a soiled linen holding room with adequate forced exhaust ducted to the exterior; and

(B) a clean linen receiving, holding, inspection, sorting or folding, and storage room.

(3) An existing large Type B assisted living facility must ensure a laundry area for resident-use meets the following requirements.

(A) An existing large Type B assisted living facility must ensure only residential type washers and dryers are provided in a laundry area for resident-use.

(B) When more than three washers and three dryers are provided in one laundry area for resident-use, the area must be:

(i) protected throughout by a fire sprinkler system; or

(ii) separated from the facility by a fire barrier having a one-hour fire resistance rating.

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 553 LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES
SUBCHAPTER D FACILITY CONSTRUCTION
DIVISION 8 NEW SMALL TYPE A ASSISTED LIVING FACILITIES

§553.211. Construction Requirements for a New Small Type A Assisted Living Facility.

(a) Structurally sound. A new small Type A assisted living facility must ensure any building is structurally sound regarding actual or expected dead, live, and wind loads according to applicable building codes, as determined and enforced by local authorities.

(b) Separation of occupancies. A new small Type A assisted living facility must be separated from other occupancies including other assisted living facilities, hospitals, or nursing facilities, by a fire barrier having at least a 2-hour fire resistance rating constructed according to the requirements of NFPA 101 and its referenced standards.

(c) Sheathing.

(1) Except as provided in paragraph (3) of this subsection a new small Type A assisted living facility must ensure all buildings used by residents are sheathed with materials providing a fire resistance rating as follows.

(A) Interior wall and ceiling surfaces must have finished surfaces, substrates, or sheathing with a fire resistance rating of not less than 20 minutes.

(B) Columns, beams, girders, or trusses that are not enclosed within walls or ceilings must be encased in materials having a fire resistance rating of not less than 20 minutes.

(2) A sprinkler system does not substitute for the minimum sheathing requirements under paragraph (1) of this subsection.

(3) A building constructed to meet the minimum building construction type requirements of 18.1.6, Minimum Construction Requirements, in NFPA 101, Chapter 18, New Health Care Occupancies, is not also required to be sheathed.

(d) Interior finish. A new small Type A assisted living facility must ensure interior wall and ceiling finish materials meet the requirements of 32.2.3.3.2, Interior Wall and Ceiling Finish, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

(e) Vertical openings. A new small Type A assisted living facility must ensure vertical openings are protected according to the requirements of 32.2.3.1, Protection of Vertical Openings, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

§553.212. Space Planning and Utilization Requirements for a New Small Type A

Assisted Living Facility.

(a) Resident bedrooms.

(1) A new small Type A assisted living facility must ensure a resident bedroom or living unit is not located on a floor that is below finished ground level.

(2) A new small Type A assisted living facility must ensure bedroom usable floor space is not less than 80 square feet for a bedroom housing one resident and not less than 60 square feet per resident for a bedroom housing multiple residents, unless otherwise permitted by paragraphs (3) and (4) of this subsection. Portions of a bedroom that are less than eight feet in the smallest dimension cannot be included in the measurement of bedroom usable floor space, unless approved by the Texas Health and Human Services Commission.

(3) A new small Type A assisted living facility containing individual living units that include living space for the residents in addition to their bedrooms may reduce the bedroom usable floor space for a bedroom housing multiple residents within a living unit by up to 10 percent of the required bedroom usable floor space, as long as the minimum dimensional criteria are maintained. A new small Type A assisted living facility may not use this provision in conjunction with the provision permitting the reduction of common social-diversional areas or common dining areas found in subsection (g)(5) of this section.

(4) A new small Type A assisted living facility must house no more than 50 percent of its licensed resident capacity in bedrooms housing three or more residents. A bedroom must not house more than four residents.

(b) Bedroom windows. A new small Type A assisted living facility must ensure each bedroom has at least one operable window with outside exposure and meeting the following requirements.

(1) The window sill [~~window sill~~] must be no higher than 44 inches above the floor.

(2) The window must be operable from the inside by all residents occupying the bedroom, [~~from the inside,~~] without the use of tools or special devices.

(3) The total area of all windows in a bedroom must not be less than eight percent of the minimum bedroom usable floor space in subsection (a)(2) [~~(a)(3)~~] of this section.

(c) Bedroom furnishings. When a resident does not provide their own furnishings, a new small Type A assisted living facility must provide the following furnishings for each resident, which must be maintained in good repair:

- (1) a bed, including a mattress;
- (2) a chair;
- (3) a table or dresser; and

(4) private clothes storage space, which must include closable doors, and drawer space for clothing and personal belongings.

(d) Arrangement of resident living units or rooms.

(1) A new small Type A assisted living facility must ensure all resident rooms open on an exit, corridor, living area, or public area.

(2) A new small Type A assisted living facility must ensure all resident rooms are arranged for convenient resident access to dining and recreation areas.

(e) Staff area. A new small Type A assisted living facility must provide a staff area on each floor of a new small Type A assisted living facility and in each separate building containing resident sleeping rooms, except as permitted under paragraph (1) of this subsection.

(1) A new small Type A assisted living facility that is not more than two stories in height and is composed of separate buildings grouped together and connected by covered walks, is not required to provide a staff area on each floor or in each building, provided that a staff area is located not more than 200 feet walking distance from the farthest resident living unit.

(2) A new small Type A assisted living facility must provide the following at each staff area:

(A) a desk or writing surface;

(B) a telephone; and

(C) a fire alarm control unit or a fire alarm annunciator panel meeting the requirements of §553.215 of this division (relating to Fire Protection Systems Requirements for a New Small Type A Assisted Living Facility).

(f) Resident toilet and bathing facilities. A new small Type A assisted living facility must ensure each resident bedroom is served by a separate private toilet room, a connecting toilet room, or a general toilet room.

(1) A new small Type A assisted living facility that houses individuals of more than one gender must provide toilet rooms for each gender, or individual single-occupant toilet rooms for use by any gender.

(2) A new small Type A assisted living facility must ensure a general toilet room or bathing room is accessible from a corridor or public space.

(3) A new small Type A assisted living facility must ensure resident toilet and bathing facilities comply with the requirements for resident-use plumbing fixtures according to §553.217 of this division (relating to Mechanical Requirements for a New Small Type A Assisted Living Facility).

(g) Resident living areas.

(1) A new small Type A assisted living facility must provide, in a common area

of the facility, social-diversional spaces with appropriate furniture. Examples of social-diversional spaces include living rooms, day rooms, lounges, dens, game rooms, and sunrooms.

(A) A new small Type A assisted living facility must provide a social-diversional space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of the number of residents or other provisions of this section permitting a reduction in the total minimum social-diversional space.

(B) A new small Type A assisted living facility must ensure a social-diversional space has one or more exterior windows providing a view of the outside.

(C) A new small Type A assisted living facility must ensure the total space for social-diversional area provides an area of at least 15 square feet for each resident in the licensed capacity of the facility. No space smaller than 120 square feet in area can be counted toward meeting this requirement.

(2) A new small Type A assisted living facility must provide a dining area with appropriate furniture.

(A) A new small Type A assisted living facility must provide a dining space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of the number of residents or other provisions of this section permitting a reduction in the total minimum dining space.

(B) A new small Type A assisted living facility must ensure a dining space has one or more exterior windows providing a view of the outside.

(C) A new small Type A assisted living facility must ensure a dining area is accessible from resident living units or bedrooms via a covered path.

(D) A new small Type A assisted living facility must ensure the total space for dining areas provides an area of at least 15 square feet for each resident in the licensed capacity of the facility. No space smaller than 120 square feet in area can be counted toward meeting this requirement.

(3) A new small Type A assisted living facility may provide a total living and dining area combined in a single or interconnecting space where the minimum area of the combined space is at least 240 square feet.

(4) A new small Type A assisted living facility must ensure an escape route through a resident living or dining area is kept clear of obstructions.

(5) Subject to the limitations of paragraphs (1)(A) and (2)(A) of this subsection and subparagraphs (A) and (B) of this paragraph, a new small Type A assisted living facility containing individual living units may reduce the minimum square footage required by paragraphs (1)(C) and (2)(D) of this subsection for total common social diversional or common dining areas, respectively, by including up to 10 percent of the individual living unit area in the calculation of the total social-diversional area or total dining area.

(A) The individual living unit area contributed toward total social-diversional space or total dining space must not be counted more than once per living unit but may be split between social-diversional and dining space calculations.

(B) A new small Type A assisted living facility must not utilize both this paragraph and subsection (a)(3) of this section to reduce both the minimum square footage otherwise required for its common social-diversional or dining areas and the minimum square footage of usable floor space otherwise required in bedrooms housing multiple residents within a living unit.

(h) Storage areas. A new small Type A assisted living facility must provide sufficient separate storage spaces or areas for at least:

(1) administrative records, office supplies, and other storage needs related to administration;

(2) medications and medical supplies;

(3) equipment supplied by the facility for resident needs, including wheelchairs, walkers, beds, and mattresses;

(4) cleaning supplies, including for janitorial needs;

(5) food;

(6) clean linens and towels, if the facility furnishes linen;

(7) soiled linen, if the facility furnishes linen; and

(8) lawn and maintenance equipment.

(i) Kitchen.

~~[(1) A new small Type A assisted living facility that prepares food off-site or in a separate building must ensure food is served at the proper temperature and transported in a sanitary manner.]~~

~~[(2) A new small Type A assisted living facility that prepares food on-site must provide a kitchen or dietary area meeting the general food service needs of the residents and must ensure that the kitchen:]~~

~~[(A) is equipped to store, refrigerate, prepare and serve food;]~~

~~[(B) is equipped to clean and sterilize;]~~

~~[(C) provides for refuse storage and removal; and]~~

~~[(D) meets the requirements of the local fire, building, and health codes.]~~

[~~(3)~~] A new small Type A assisted living facility must ensure a kitchen uses only residential cooking equipment or, if the kitchen uses commercial cooking equipment, that the facility protects the kitchen's cooking operations as required in §553.216 of this division (relating to Hazardous Area Requirements for a New Small

Type A Assisted Living Facility).

§553.215. Fire Protection Systems Requirements for a New Small Type A Assisted Living Facility.

(a) Fire alarm and smoke detection system. A new small Type A assisted living facility must provide a manual fire alarm system meeting the requirements of 9.6, Fire Detection, Alarm, and Communication Systems, in NFPA 101, Chapter 9, Building Service and Fire Protection Equipment, as modified by this section.

(1) General. A new small Type A assisted living facility must ensure the operation of any alarm initiating device automatically activates the manual fire alarm system evacuation alarm for the entire building.

(2) Smoke detectors.

(A) A new small Type A assisted living facility must install smoke detectors in resident bedrooms, corridors, hallways, living rooms, dining rooms, offices, kitchens, laundries, attached garages used for car parking, and public or common areas, except as permitted in subparagraphs (B) and (C) of this paragraph.

(B) A new small Type A assisted living facility may install heat detectors in lieu of smoke detectors in kitchens, laundries, and attached garages used for car parking.

(C) A new small Type A assisted living facility located in a building constructed to meet the requirements of NFPA 101, Chapter 18, New Health Care Occupancies, may install a smoke detection system meeting the requirements of 18.3.4.5.3, Nursing Homes, in NFPA 101, Chapter 18, New Health Care Occupancies, in lieu of the requirements found in subparagraph (A) of this paragraph.

(3) Alarm control panel.

(A) A new small Type A assisted living facility must provide a fire alarm control unit, or a fire alarm annunciator providing annunciation of all fire alarm, supervisory, and trouble signals by audible and visible indicators, in a location visible to staff at or near the staff area that is attended 24 hours a day.

(B) A new small Type A assisted living facility is not required to ensure a fire alarm control unit or fire alarm annunciator is visible to staff if the fire alarm is monitored by devices carried by all staff.

(4) Fire alarm power source.

(A) A new small Type A assisted living facility must ensure a fire alarm system is powered by a permanently-wired, dedicated branch circuit that is powered from a commercial power source in accordance with NFPA 70.

(B) A new small Type A assisted living facility must provide a secondary, emergency power source meeting the requirements of NFPA 72.

(b) Fire sprinkler system.

(1) In accordance with requirements in 32.2.3.5, Extinguishment Requirements in NFPA 101, Chapter 32, New Residential Board and Care Occupancies, a new small Type A assisted living facility must provide: ~~[A new small Type A assisted living facility must provide one of the following fire sprinkler systems according to the requirements of 32.2.3.5, Extinguishment Requirements, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.]~~

(A) a ~~[A]~~ fire sprinkler system meeting the requirements of NFPA 13 in accordance with 32.2.3.5.3;

(B) a ~~[A]~~ fire sprinkler system meeting the requirements of NFPA 13R in accordance with 32.2.3.5.3.1; or

(C) a ~~[A]~~ fire sprinkler system meeting the requirements of NFPA 13D in accordance with 32.2.3.5.3.2.

(2) A new small Type A assisted living facility must ensure a fire sprinkler system is supervised according to 9.7.2, Supervision, in NFPA 101, Chapter 9, Building Service and Fire Protection Equipment ~~[provide electrical supervision of any fire sprinkler system according to the requirements of 32.2.3.5.4, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies].~~

(c) Protection of attics. A new small Type A assisted living facility must ensure an attic is protected according to the requirements of 32.2.3.5.7, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

(d) Portable fire extinguishers. A new small Type A assisted living facility must provide and maintain portable fire extinguishers according to the requirements of NFPA 10.

(1) A new small Type A assisted living facility must ensure all requirements of NFPA 10 are followed for all extinguisher types, including requirements for location, spacing, mounting heights, monthly inspections by staff, yearly inspections by a licensed agent, any necessary servicing, and hydrostatic testing as recommended by the manufacturer.

(2) A new small Type A assisted living facility must ensure portable fire extinguishers are located so the travel distance from any point in the facility to an extinguisher is no more than 75 feet.

(3) A new small Type A assisted living facility must ensure the actual size of any portable fire extinguisher meets the requirements of NFPA 10 for maximum floor area per unit covered, but an extinguisher must be no smaller than the following.

(A) A water-type portable fire extinguisher must have a rating of at least 1-A according to NFPA 10.

(B) All other portable fire extinguishers must have a rating of at least 2-A:10-B:C according to NFPA 10.

(4) A new small Type A assisted living facility must ensure portable fire extinguishers are installed on hangers or brackets supplied with the extinguisher or mounted in an approved cabinet.

(5) A new small Type A assisted living facility must ensure a portable fire extinguisher is protected from impact or dislodgement.

(6) A new small Type A assisted living facility must ensure a portable fire extinguisher is installed at an appropriate height.

(A) A portable fire extinguisher having a gross weight of up to 40 pounds must be installed so the top of the extinguisher is not more than five feet above the floor.

(B) A portable fire extinguisher having a gross weight greater than 40 pounds must be installed so the top of the extinguisher is not more than three and a half feet above the floor.

(C) A portable fire extinguisher must be installed so the clearance between the bottom of the extinguisher and the floor is at least four inches.

(7) A portable extinguisher provided in a hazardous room must be located as close as possible to the door leading from the room and on the latch or knob side of the door.

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
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SUBCHAPTER D FACILITY CONSTRUCTION
DIVISION 9 NEW SMALL TYPE B ASSISTED LIVING FACILITIES

§553.222. Space Planning and Utilization Requirements for a New Small Type B Assisted Living Facility.

(a) Resident bedrooms.

(1) A new small Type B assisted living facility must ensure a resident bedroom or living unit is not located on a floor that is below finished ground level.

(2) A new small Type B assisted living facility must ensure bedroom usable floor space is not less than 100 square feet for a bedroom housing one resident and not less than 80 square feet per resident for a bedroom housing multiple residents, unless otherwise permitted by paragraphs (3) and (4) of this subsection. Portions of a bedroom that are less than 10 feet in the smallest dimension cannot be included in the measurement of bedroom usable floor space, unless approved by the Texas Health and Human Services Commission.

(3) A new small Type B assisted living facility containing individual living units that include living space for the residents, in addition to their bedroom, may reduce the bedroom usable floor space for a bedroom housing multiple residents within a living unit by up to 10 percent of the required bedroom usable floor space, as long as the minimum dimensional criteria are maintained. A new small Type B assisted living facility must not use this provision in conjunction with the provision permitting the reduction of common social-diversional areas or common dining areas found in subsection (g)(5) of this section.

(4) A new small Type B assisted living facility must house no more than 50 percent of its licensed resident capacity in bedrooms housing three or more residents. A bedroom must not house more than four residents.

(b) Bedroom windows. A new small Type B assisted living facility must ensure each bedroom has at least one operable window with outside exposure and meeting the following requirements.

(1) The windowsill [~~window sill~~] must be no higher than 44 inches above the floor.

(2) The window must be operable from the inside by a resident occupying the bedroom, [~~from the inside,~~] without the use of tools or special devices.

(3) The total area of all windows in a bedroom must not be less than eight percent of the minimum bedroom usable floor space required by subsection (a)(2) [~~(a)(3)~~] of this section.

(c) Bedroom furnishings. When a resident does not provide their own furnishings, a new small Type B assisted living facility must provide the following furnishings for

each resident, which must be maintained in good repair:

- (1) a bed, including a mattress;
- (2) a chair;
- (3) a table or dresser; and

(4) private clothes storage space, which must have closable doors, and drawer space for clothing and personal belongings.

(d) Arrangement of resident living units or rooms.

(1) A new small Type B assisted living facility must ensure all resident rooms open on an exit, corridor, living area, or public area.

(2) A new small Type B assisted living facility must ensure all resident rooms are arranged for convenient resident access to dining and recreation areas.

(e) Staff area. A new small Type B assisted living facility must provide a staff area on each floor of a new small Type B assisted living facility and in each separate building containing resident sleeping rooms. A new small Type B assisted living facility must provide the following at each staff area:

- (1) a desk or writing surface;
- (2) a telephone; and

(3) a fire alarm control unit or a fire alarm annunciator panel meeting the requirements of §553.225 of this division (relating to Fire Protection Systems Requirements for a New Small Type B Assisted Living Facility).

(f) Resident toilet and bathing facilities. A new small Type B assisted living facility must ensure each resident bedroom is served by a separate private toilet room, a connecting toilet room, or a general toilet room.

(1) A new small Type B assisted living facility that houses individuals of more than one gender must provide toilet rooms for each gender, or individual single-occupant toilet rooms for use by any gender.

(2) A new small Type B assisted living facility must ensure a general toilet room or bathing room is accessible from a corridor or public space.

(3) A new small Type B assisted living facility must ensure resident toilet and bathing facilities comply with the requirements for resident-use plumbing fixtures according to §553.227 of this division (relating to Mechanical Requirements for a New Small Type B Assisted Living Facility).

(g) Resident living areas.

(1) A new small Type B assisted living facility must provide, in a common area of the facility, social-diversional spaces with appropriate furniture. Examples of

social-diversional spaces include living rooms, day rooms, lounges, dens, game rooms, and sunrooms.

(A) A new small Type B assisted living facility must provide a social-diversional space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of the number of residents or other provisions of this section permitting a reduction in the total minimum social-diversional space.

(B) A new small Type B assisted living facility must ensure a social-diversional space has one or more exterior windows providing a view of the outside.

(C) A new small Type B assisted living facility must ensure the total space for social-diversional area provides an area of at least 15 square feet for each resident in the licensed capacity of the facility. No space smaller than 120 square feet in area can be counted toward meeting this requirement.

(2) A new small Type B assisted living facility must provide a dining area with appropriate furniture.

(A) A new small Type B assisted living facility must provide a dining space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of the number of residents or other provisions of this section permitting a reduction in the total minimum dining space.

(B) A new small Type B assisted living facility must ensure a dining space has one or more exterior windows providing a view of the outside.

(C) A new small Type B assisted living facility must ensure a dining area is accessible from resident living units or bedrooms via a covered path.

(D) A new small Type B assisted living facility must ensure the total space for dining areas provides an area of at least 15 square feet for each resident in the licensed capacity of the facility. No space smaller than 120 square feet in area can be counted toward meeting this requirement.

(3) A new small Type B assisted living facility may provide a total living and dining area combined in a single or interconnecting space where the minimum area of the combined space is at least 240 square feet.

(4) A new small Type B assisted living facility must ensure an escape route through a resident living or dining area is kept clear of obstructions.

(5) Subject to the limitations of paragraphs (1)(A) and (2)(A) of this subsection and subparagraphs (A) and (B) of this paragraph, a new small Type B assisted living facility containing individual living units may reduce the minimum square footage required by paragraphs (1)(C) and (2)(D) of this subsection for total common social-diversional or common dining areas, respectively, by including up to 10 percent of the individual living unit area in the calculation of the total social-diversional area or total dining area.

(A) The individual living unit area contributed toward total social-diversional space or total dining space must not be counted more than once per living unit but may be split between social-diversional and dining space calculations.

(B) A new small Type B assisted living facility must not utilize both this paragraph and subsection (a)(3) of this section to reduce both the minimum square footage otherwise required for its common social-diversional or dining areas and the minimum square footage of usable floor space otherwise required in bedrooms housing multiple residents within a living unit.

(h) Storage areas. A new small Type B assisted living facility must provide sufficient separate storage spaces or areas for at least:

(1) administrative records, office supplies, and other storage needs related to administration;

(2) medications and medical supplies;

(3) equipment supplied by the facility for resident needs, including wheelchairs, walkers, beds, and mattresses;

(4) cleaning supplies, including for janitorial needs;

(5) food;

(6) clean linens and towels, if the facility furnishes linen;

(7) soiled linen, if the facility furnishes linen; and

(8) lawn and maintenance equipment.

(i) Kitchen.

~~[(1) A new small Type B assisted living facility that prepares food off-site or in a separate building must ensure food is served at the proper temperature and transported in a sanitary manner.]~~

~~[(2) A new small Type B assisted living facility that prepares food on-site must provide a kitchen or dietary area meeting the general food service needs of the residents and must ensure that the kitchen:]~~

~~[(A) is equipped to store, refrigerate, prepare, and serve food;]~~

~~[(B) is equipped to clean and sterilize;]~~

~~[(C) provides for refuse storage and removal; and]~~

~~[(D) meets the requirements of the local fire, building, and health codes.]~~

[(3)] A new small Type B assisted living facility must ensure a kitchen uses only residential cooking equipment or, if the kitchen uses commercial cooking equipment, that the facility protects the kitchen's cooking operations, as required in §553.226 of this division (relating to Hazardous Area Requirements for a New Small

Type B Assisted Living Facility).

§553.225. Fire Protection Systems Requirements for a New Small Type B Assisted Living Facility.

(a) Fire alarm and smoke detection system. A new small Type B assisted living facility must provide a manual fire alarm system meeting the requirements of 9.6, Fire Detection, Alarm, and Communication Systems, in NFPA 101, Chapter 9, Building Service and Fire Protection Equipment, as modified by this section.

(1) General. A new small Type B assisted living facility must ensure the operation of any alarm initiating device automatically activates the manual fire alarm system evacuation alarm for the entire building.

(2) Smoke detectors.

(A) A new small Type B assisted living facility must install smoke detectors in resident bedrooms, corridors, hallways, living rooms, dining rooms, offices, kitchens, laundries, attached garages used for car parking, and public or common areas, except as permitted in subparagraphs (B) and (C) of this paragraph.

(B) A new small Type B assisted living facility may install heat detectors in lieu of smoke detectors in kitchens, laundries, and attached garages used for car parking.

(C) A new small Type B assisted living facility located in a building constructed to meet the requirements of NFPA 101, Chapter 18, New Health Care Occupancies, may install a smoke detection system meeting the requirements of 18.3.4.5.3, Nursing Homes, in NFPA 101, Chapter 18, New Health Care Occupancies, in lieu of the requirements found in subparagraph (A) of this paragraph.

(3) Alarm control panel.

(A) A new small Type B assisted living facility must provide a fire alarm control unit, or a fire alarm annunciator providing annunciation of all fire alarm, supervisory, and trouble signals by audible and visible indicators, in a location visible to staff at or near the staff area that is attended 24 hours a day.

(B) A new small Type B assisted living facility is not required to ensure a fire alarm control unit or fire alarm annunciator is visible to staff if the fire alarm is monitored by devices carried by all staff.

(4) Fire alarm power source.

(A) A new small Type B assisted living facility must ensure a fire alarm system is powered by a permanently wired [~~permanently-wired~~], dedicated branch circuit that is powered from a commercial power source in accordance with NFPA 70.

(B) A new small Type B assisted living facility must provide a secondary,

emergency power source meeting the requirements of NFPA 72.

(b) Fire sprinkler system.

(1) In accordance with 32.2.3.5, Extinguishment Requirements, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies, a new small Type B assisted living facility must provide: ~~[A new small Type B assisted living facility must provide one of the following fire sprinkler systems according to the requirements of 32.2.3.5, Extinguishment Requirements, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.]~~

(A) a [A] fire sprinkler system meeting the requirements of NFPA 13 in accordance with 32.2.3.5.3;

(B) a [A] fire sprinkler system meeting the requirements of NFPA 13R in accordance with 32.2.3.5.3.1; or

(C) a [A] fire sprinkler system meeting the requirements of NFPA 13D in accordance with 32.2.3.5.3.2.

(2) A new small Type B assisted living facility must ensure a fire sprinkler system is supervised according to 9.7.2, Supervision, in NFPA 101, Chapter 9, Building Service and Fire Protection Equipment. ~~[provide electrical supervision of any fire sprinkler system according to the requirements of 32.2.3.5.4, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.]~~

(c) Protection of attics. A new small Type B assisted living facility must ensure an attic is protected according to the requirements of 32.2.3.5.7, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

(d) Portable fire extinguishers. A new small Type B assisted living facility must provide and maintain portable fire extinguishers according to the requirements of NFPA 10.

(1) A new small Type B assisted living facility must ensure all requirements of NFPA 10 are followed for all extinguisher types, including requirements for location, spacing, mounting heights, monthly inspections by staff, yearly inspections by a licensed agent, any necessary servicing, and hydrostatic testing as recommended by the manufacturer.

(2) A new small Type B assisted living facility must ensure portable fire extinguishers are located so the travel distance from any point in the facility to an extinguisher is no more than 75 feet.

(3) A new small Type B assisted living facility must ensure the actual size of any portable fire extinguisher meets the requirements of NFPA 10 for maximum floor area per unit covered, but an extinguisher must be no smaller than the following.

(A) A water-type portable fire extinguisher must have a rating of at least 1-A according to NFPA 10.

(B) All other portable fire extinguishers must have a rating of at least 2-A:10-B:C according to NFPA 10.

(4) A new small Type B assisted living facility must ensure portable fire extinguishers are installed on hangers or brackets supplied with the extinguisher or mounted in an approved cabinet.

(5) A new small Type B assisted living facility must ensure a portable fire extinguisher is protected from impact or dislodgement.

(6) A new small Type B assisted living facility must ensure a portable fire extinguisher is installed at an appropriate height.

(A) A portable fire extinguisher having a gross weight of up to 40 pounds must be installed so the top of the extinguisher is not more than five feet above the floor.

(B) A portable fire extinguisher having a gross weight greater than 40 pounds must be installed so the top of the extinguisher is not more than three and a half feet above the floor.

(C) A portable fire extinguisher must be installed so the clearance between the bottom of the extinguisher and the floor is at least four inches.

(7) A portable extinguisher provided in a hazardous room must be located as close as possible to the door leading from the room and on the latch or knob side of the door.

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 553 LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES
SUBCHAPTER D FACILITY CONSTRUCTION
DIVISION 10 NEW LARGE TYPE A ASSISTED LIVING FACILITIES

§553.231. Construction Requirements for a New Large Type A Assisted Living Facility.

(a) Structurally sound. A new large Type A assisted living facility must ensure any building is structurally sound regarding actual or expected dead, live, and wind loads according to applicable building codes, as determined and enforced by local authorities.

(b) Separation of occupancies. A new large Type A assisted living facility must be separated from other occupancies, including other assisted living facilities, hospitals or nursing facilities, by a fire barrier having at least a 2-hour fire resistance rating constructed according to the requirements of NFPA 101 and its referenced standards.

(c) Construction type. A new large Type A assisted living facility must ensure a building housing the facility meets the requirements of 32.3.1.3, Minimum Construction Requirements, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

(d) Interior finish. A new large Type A assisted living facility must ensure interior wall and ceiling finish materials meet the requirements of 32.3.3.3, Interior Finish, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

(e) Vertical openings. A new large Type A assisted living facility must ensure vertical openings are protected according to the requirements of 32.3.3.1, Protection of Vertical Openings, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

§553.232. Space Planning and Utilization Requirements for a New Large Type A Assisted Living Facility.

(a) Resident bedrooms.

(1) A new large Type A assisted living facility must ensure a resident bedroom or living unit is not located on a floor that is below finished ground level.

(2) A new large Type A assisted living facility must ensure bedroom usable floor space is not less than 80 square feet for a bedroom housing one resident and not less than 60 square feet per resident for a bedroom housing multiple residents, unless otherwise permitted in paragraphs (3) and (4) of this subsection. Portions of a bedroom that are less than eight feet in the smallest dimension cannot be included in the measurement of bedroom usable floor space, unless approved by HHSC.

(3) A new large Type A assisted living facility containing individual living units

that include living space for the residents, in addition to their bedroom, may reduce the bedroom usable floor space for a bedroom housing multiple residents within a living unit by up to 10 percent of the required bedroom usable floor space, as long as the minimum dimensional criteria are maintained. A new large Type A assisted living facility must not use this provision in conjunction with the provision permitting the reduction of common social-diversional areas or common dining areas found in subsection (g)(6) of this section.

(4) A new large Type A assisted living facility must house no more than 50 percent of its licensed resident capacity in bedrooms housing three or more residents. A bedroom must not house more than four residents.

(b) Bedroom windows. A new large Type A assisted living facility must ensure each bedroom has at least one operable window with outside exposure and meeting the following requirements.

(1) The window sill [~~window sill~~] must be no higher than 44 inches above the floor.

(2) The window must be operable from the inside by a resident occupying the bedroom, [~~from the inside,~~] without the use of tools or special devices.

(3) The total area of all windows in a bedroom must not be less than eight percent of the minimum bedroom usable floor space according to the requirements of subsection (a)(2) [~~(a)(3)~~] of this section.

(c) Bedroom furnishings. When a resident does not provide their own furnishings, a new large Type A assisted living facility must provide the following furnishings for each resident, which must be maintained in good repair:

(1) a bed, including a mattress;

(2) a chair;

(3) a table or dresser; and

(4) private clothes storage space, which must have closable doors, and drawer space for clothing and personal belongings.

(d) Arrangement of resident living units or rooms.

(1) A new large Type A assisted living facility must ensure all resident rooms open on an exit, corridor, living area, or public area.

(2) A new large Type A assisted living facility must ensure a resident room is arranged for convenient resident access to dining and recreation areas.

(e) Staff area. A new large Type A assisted living facility must provide a staff area on each floor of a new large Type A assisted living facility and in each separate building containing resident sleeping rooms, except as permitted under paragraph (1) of this subsection.

(1) A new large Type A assisted living facility that is not more than two stories in height and is composed of separate buildings grouped together and connected by covered walks, is not required to provide a staff area on each floor or in each building, provided that a staff area is located not more than 200 feet walking distance from the farthest resident living unit.

(2) A new large Type A assisted living facility must provide the following at each staff area:

(A) a desk or writing surface;

(B) a telephone; and

(C) a fire alarm control unit or a fire alarm annunciator panel meeting the requirements of §553.235 of this division (relating to Fire Protection Systems Requirements for a New Large Type A Assisted Living Facility).

(f) Resident toilet and bathing facilities. A new large Type A assisted living facility must ensure each resident bedroom is served by a separate private toilet room, a connecting toilet room, or a general toilet room.

(1) A new large Type A assisted living facility that houses individuals of more than one gender must provide toilet rooms for each gender, or individual single-occupant toilet rooms for use by any gender.

(2) A new large Type A assisted living facility must ensure a general toilet room or bathing room is accessible from a corridor or public space.

(3) A new large Type A assisted living facility must ensure resident toilet and bathing facilities comply with the requirements for resident-use plumbing fixtures according to §553.237 of this division (relating to Mechanical Requirements for a New Large Type A Assisted Living Facility).

(g) Resident living areas.

(1) A new large Type A assisted living facility must provide, in a common area of the facility, social-diversional spaces with appropriate furniture. Examples of social-diversional spaces include living rooms, day rooms, lounges, dens, game rooms, and sunrooms.

(A) A new large Type A assisted living facility must provide a social-diversional space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of the number of residents or other provisions of this section permitting a reduction in the total minimum social-diversional space.

(B) A new large Type A assisted living facility must ensure a social-diversional space has one or more exterior windows providing a view of the outside.

(C) A new large Type A assisted living facility must ensure the total space for social-diversional areas is provided on a sliding scale according to the following

table. No space smaller than 120 square feet in area can be counted toward meeting this requirement.

Figure: 26 TAC §553.232(g)(1)(C) (No Change)

(2) A new large Type A assisted living facility must provide a dining area with appropriate furniture.

(A) A new large Type A assisted living facility must provide a dining space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of the number of residents or other provisions of this section permitting a reduction in the total minimum dining space.

(B) A new large Type A assisted living facility must ensure a dining space has one or more exterior windows providing a view of the outside.

(C) A new large Type A assisted living facility must ensure a dining area is accessible from resident living units or bedrooms via a covered path.

(D) A new large Type A assisted living facility must ensure the total space for dining areas is provided on a sliding scale according to the following table. No space smaller than 120 square feet in area can be counted toward meeting this requirement.

Figure: 26 TAC §553.232(g)(2)(D) (No Change)

(3) A new large Type A assisted living facility may provide a total living and dining area combined in a single or interconnecting space where the minimum area of the combined space is at least 240 square feet.

(4) For calculation purposes, where a means of egress passes through a living or dining area, a new large Type A assisted living facility must deduct a pathway, equal to the minimum corridor width according to §553.233 of this division (relating to Means of Egress Requirements for a New Large Type A Assisted Living Facility), from the measured area of the space.

(5) A new large Type A assisted living facility must ensure a means of egress through a resident living or dining area is kept clear of obstructions, except as permitted by NFPA 101.

(6) Subject to the limitations of paragraphs (1)(A) and (2)(A) of this subsection and subparagraphs (A) and (B) of this paragraph, a new large Type A assisted living facility containing individual living units may reduce the minimum square footage required by paragraphs (1)(C) and (2)(D) of this subsection for total common social-diversional or common dining areas, respectively, by including up to 10 percent of the individual living unit area in the calculation of the total social-diversional area or total dining area.

(A) The individual living unit area contributed toward total social-diversional space or total dining space must not be counted more than once per living unit but may be split between social-diversional and dining space calculations.

(B) A new large Type A assisted living facility must not utilize both this paragraph and subsection (a)(3) of this section to reduce both the minimum square footage otherwise required for its common social-diversional or dining areas and the minimum square footage of usable floor space otherwise required in bedrooms housing multiple residents within a living unit.

(h) Storage areas. A new large Type A assisted living facility must provide sufficient separate storage spaces or areas for at least:

(1) administrative records, office supplies, and other storage needs related to administration;

(2) medications and medical supplies;

(3) equipment supplied by the facility for resident needs, including wheelchairs, walkers, beds, and mattresses;

(4) cleaning supplies including for janitorial needs;

(5) food;

(6) clean linens and towels, if the facility furnishes linen;

(7) soiled linen, if the facility furnishes linen; and

(8) lawn and maintenance equipment.

(i) General kitchen.

~~[(1) A new large Type A assisted living facility that prepares food off site or in a separate building must ensure food is served at the proper temperature and transported in a sanitary manner.]~~

~~[(2) A new large Type A assisted living facility must ensure a kitchen meets the requirements of the local fire, building, and health codes.]~~

(1) [(3)] A new large Type A assisted living facility that prepares food onsite ~~[on-site]~~ must provide a kitchen or dietary area that includes ~~[to meet the general food service needs of the residents and must include]~~ space for the following:

(A) storage, refrigeration, preparation, and serving food;

(B) dish and utensil cleaning which includes:

(i) a three-compartment sink large enough to immerse pots and pans;
and

(ii) a mechanical dishwasher for washing and sanitizing dishes;

(C) a food preparation sink;

(D) a handwashing station in every food preparation area with a supply of hot and cold water, soap, a towel dispenser and a waste receptacle;

(E) a handwashing lavatory that is readily accessible to every dish room area; and

(F) refuse storage and removal; and

(G) floor drains in the kitchen and dishwashing areas, unless the facility was created through conversion and the facility can keep the floor clean. ~~[; and]~~

~~[(H) a grease trap, if required by local authorities.]~~

(2)~~[(4)]~~ A new large Type A assisted living facility must ensure a kitchen is designed so that room temperature, at peak load or in the summer, does not exceed 85 degrees Fahrenheit measured throughout the room at five feet above the floor.

(3)~~[(5)]~~ A new large Type A assisted living facility must ensure the volume of supply air provided takes into account the large quantities of air that may be exhausted at the range hood and dishwashing area.

(4)~~[(6)]~~ A new large Type A assisted living facility must provide a supply of hot and cold water.

(A) Hot water for sanitizing purposes must be 180 degrees Fahrenheit.

(B) When chemical sanitizers are used, hot water must meet the manufacturer's suggested temperature.

(5)~~[(7)]~~ A new large Type A assisted living facility must maintain a separation between soiled and clean dish areas.

(6)~~[(8)]~~ A new large Type A assisted living facility must maintain a separation of air flow between soiled and clean dish areas.

(j) Kitchen restrooms.

(1) A new large Type A assisted living facility must provide a restroom facility for kitchen staff, including a lavatory, except as described in paragraph (2) of this subsection.

(A) The restroom facility must be directly accessible to kitchen staff without traversing resident use areas.

(B) The restroom must open into a service corridor or vestibule and not open directly into the kitchen.

(2) A new large Type A assisted living facility created through conversion may provide a staff restroom that may be located outside the kitchen area.

(k) Kitchen janitorial facility.

(1) A new large Type A assisted living facility must provide janitorial facilities exclusively for the kitchen and located in the kitchen area except as described in

paragraph (2) of this subsection.

(2) A new large Type A assisted living facility created through conversion must provide a janitorial facility for the kitchen. The janitorial facility may be located outside the kitchen if sanitary procedures are used to reduce the possibility of cross-contamination.

(3) A new large Type A assisted living facility must provide a garbage can or cart washing area with a floor drain and a supply of hot water. The garbage can or cart washing area may be in the interior or on the exterior of the facility.

(l) Finishes.

(1) A new large Type A assisted living facility must provide non-absorbent, smooth finishes or surfaces on all kitchen floors, walls and ceilings.

(2) A new large Type A assisted living facility must provide non-absorbent, smooth, cleanable finishes on counter surfaces and all cabinet surfaces.

(3) A new large Type A assisted living facility must ensure surfaces are capable of being routinely cleaned and sanitized to maintain a healthful environment.

(m) Vision panels in communicating doors. A new large Type A assisted living facility must ensure a door between a kitchen and a dining area, serving area, or resident-use area, is provided with a vision panel with fixed safety glass. Where the door is a required fire door or is located in a fire barrier or other fire resistance-rated enclosure, the vision panel, including the glazing and the frame, must meet the requirements of NFPA 101.

(n) Auxiliary serving kitchens.

(1) A new large Type A assisted living facility must ensure an auxiliary serving kitchen is equipped to maintain required food temperatures.

(2) A new large Type A assisted living facility must ensure an auxiliary serving kitchen is equipped with a handwashing lavatory meeting the requirements of this section.

(3) A new large Type A assisted living facility must ensure all surfaces in an auxiliary serving kitchen meet the requirements for finishes in this section.

(o) Protection of cooking operations.

(1) A new large Type A assisted living facility must protect cooking facilities according to the requirements in §553.236 of this division (relating to Hazardous Area Requirements for a New Large Type A Assisted Living Facility).

(2) The following commercial or residential cooking equipment used only for reheating, and not for meal preparation, is not required to comply with the requirements of §553.236 of this division:

(A) microwave ovens;

(B) hot plates; or

(C) toasters.

(p) Food storage areas.

(1) A new large Type A assisted living facility must provide a food storage area large enough to consistently maintain a four-day minimum supply of non-perishable food. A food storage area may be located away from the food preparation area as long as there is space adjacent to the kitchen for necessary daily usage.

(2) A new large Type A assisted living facility must provide dollies, racks, pallets, wheeled containers, or shelving, so that food is not stored on the floor, and must ensure shelves are adjustable wire type shelving.

(3) A new large Type A assisted living facility must provide non-absorbent finishes or surfaces on all floors and walls in food storage areas.

(4) A new large Type A assisted living facility must provide effective ventilation in dry food storage areas to ensure positive air circulation.

(5) A new large Type A assisted living facility must ensure the maximum room temperature in a food storage area does not exceed 85 degrees Fahrenheit at any time, when measured at the highest food storage level, but not less than five feet above the floor.

(q) Laundry and linen services.

(1) A new large Type A assisted living facility that co-mingles and processes laundry onsite [~~on-site~~] in a central location, regardless of the type of laundry equipment used, must ensure a laundry area:

(A) is separated from the assisted living building by a fire barrier having a one-hour fire resistance rating. This separation must extend from the floor to the floor or roof above;

(B) is protected throughout by a fire sprinkler system; and

(C) has access doors that open to the exterior or to an interior non-resident use area, such as a vestibule or service corridor; and

(D) is provided with:

(i) a soiled linen receiving, holding, and sorting room with a floor drain and forced exhaust to the exterior;

(I) the exhaust must always operate when soiled linen is held in this area; and

(II) the area may be combined with the washer section;

(ii) a general laundry work area that is separated by partitioning a washer

section and a dryer section;

(iii) a storage area for laundry supplies;

(iv) a folding area;

(v) an adequate air supply and ventilation for staff comfort without having to rely on opening a door that is part of the fire barrier separation required by subparagraph (A) of this paragraph; and

(vi) provisions to exhaust heat from dryers and to separate dryer make-up air from the habitable work areas of the laundry.

(2) If linen is processed off site, the facility must provide:

(A) a soiled linen holding room with adequate forced exhaust ducted to the exterior; and

(B) a clean linen receiving, holding, inspection, sorting or folding, and storage room.

(3) A new large Type A assisted living facility must ensure a laundry area for resident-use meets the following requirements.

(A) A new large Type A assisted living facility must ensure only residential type washers and dryers are provided in a laundry area for resident-use.

(B) When more than three washers and three dryers are provided in one laundry area for resident-use, the area must be:

(i) protected throughout by a fire sprinkler system; or

(ii) separated from the facility by a fire barrier having a one-hour fire resistance rating.

§553.235. Fire Protection Systems Requirements for a New Large Type A Assisted Living Facility.

(a) Fire alarm and smoke detection system. A new large Type A assisted living facility must provide a manual fire alarm system meeting the requirements of 9.6, Fire Detection, Alarm, and Communication Systems, in NFPA 101, Chapter 9, Building Service and Fire Protection Equipment, as modified by this section.

(1) General. A new large Type A assisted living facility must ensure the operation of any alarm initiating device automatically activates the manual fire alarm system evacuation alarm for the entire building.

(2) Smoke detectors.

(A) A new large Type A assisted living facility must install smoke detectors in resident bedrooms, corridors, hallways, living rooms, dining rooms, offices, kitchens, laundries, attached garages used for car parking, and public or common

areas, except as permitted in subparagraphs (B) - (D) of this paragraph.

(B) A new large Type A assisted living facility may install heat detectors in lieu of smoke detectors in kitchens, laundries, and attached garages used for car parking.

(C) A new large Type A assisted living facility located in a building constructed to meet the requirements of NFPA 101, Chapter 18, New Health Care Occupancies, may install a smoke detection system meeting the requirements of 18.3.4.5.3, Nursing Homes [~~19.3.4.5.1, Corridors~~], in NFPA 101, Chapter 18, New Health Care Occupancies, in lieu of the requirements found in subparagraphs (A) and (B) of this paragraph.

(D) A new large Type A assisted living facility comprised of buildings containing living units with independent cooking equipment must additionally have:

(i) a smoke detector installed in all [~~in~~] resident bedrooms, corridors, hallways, living rooms, dining rooms, offices, kitchens and laundries within the living unit, that sounds an alarm only within the living unit; and

(ii) a heat detector installed in the kitchen within the living unit that activates the general alarm.

(E) A new large Type A assisted living facility is not required to install smoke alarms, as required by 32.3.3.4.7 [~~32.3.4.7~~] Smoke Alarms, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies, in addition to the smoke detectors required by subparagraphs (A) - (D) of this paragraph.

(3) Alarm control panel.

(A) A new large Type A assisted living facility must provide a fire alarm control unit, or a fire alarm annunciator providing annunciation of all fire alarm, supervisory, and trouble signals by audible and visible indicators, in a location visible to staff at or near the staff area that is attended 24 hours a day.

(B) A new large Type A assisted living facility is not required to ensure a fire alarm control unit or fire alarm annunciator is visible to staff if the fire alarm is monitored by devices carried by all staff.

(C) A new large Type A assisted living facility must ensure a fire alarm panel indicates each floor and smoke compartment, as applicable, as a separate zone. Each zone must provide an alarm and trouble indication. When all alarm initiating devices are addressable and the status of each device is identified on the fire alarm panel, zone indication is not required.

(4) Fire alarm power source.

(A) A new large Type A assisted living facility must ensure a fire alarm system is powered by a permanently-wired, dedicated branch circuit that is powered from a commercial power source in accordance with NFPA 70.

(B) A new large Type A assisted living facility must provide a secondary, emergency power source meeting the requirements of NFPA 72.

(5) Emergency forces notification. A new large Type A assisted living must ensure a fire alarm system provides emergency forces notification according to the requirements of 32.3.3.4.6, Emergency Forces Notification, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

(b) Fire sprinkler system. A new large Type A assisted living facility must provide a fire sprinkler system meeting the requirements of NFPA 13 in accordance with 32.3.3.5, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies.

(c) Portable Fire Extinguishers. A new large Type A assisted living facility must provide and maintain portable fire extinguishers according to the requirements of 32.3.3.5.7, Portable Fire Extinguishers, in NFPA 101, Chapter 32, New Residential Board and Care Occupancies, and the additional requirements of this subsection.

(1) A new large Type A assisted living facility must ensure all requirements of NFPA 10 are followed for all extinguisher types, including requirements for location, spacing, mounting heights, monthly inspections by staff, yearly inspections by a licensed agent, any necessary servicing, and hydrostatic testing as recommended by the manufacturer.

(2) A new large Type A assisted living facility must ensure portable fire extinguishers are located in resident corridors so the travel distance from any point in the facility to an extinguisher is no more than 75 feet.

(3) A new large Type A assisted living facility must ensure the actual size of any portable fire extinguisher meets the requirements of NFPA 10 for maximum floor area per unit covered, but an extinguisher must be no smaller than the following.

(A) A water-type portable fire extinguisher must have a rating of at least 1-A according to NFPA 10.

(B) All other portable fire extinguishers must have a rating of at least 2-A:10-B:C according to NFPA 10.

(C) A facility must provide at least one approved 20-B:C portable fire extinguisher in each laundry, kitchen and walk-in mechanical room.

(4) A new large Type A assisted living facility must ensure portable fire extinguishers are installed on hangers or brackets supplied with the extinguisher or is mounted in an approved cabinet.

(5) A new large Type A assisted living facility must ensure a portable fire extinguisher is protected from impact or dislodgement.

(6) A new large Type A assisted living facility must ensure a portable fire extinguisher is installed at an appropriate height.

(A) A portable fire extinguisher having a gross weight of up to 40 pounds

must be installed so the top of the extinguisher is not more than five feet above the floor.

(B) A portable fire extinguisher having a gross weight greater than 40 pounds must be installed so the top of the extinguisher is not more than three and a half feet above the floor.

(C) A portable fire extinguisher must be installed so the clearance between the bottom of the extinguisher and the floor is at least four inches.

(7) A portable extinguisher provided in a hazardous room must be located as close as possible to the exit access door leading from the room and on the latch or knob side of the door.

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 553 LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES
SUBCHAPTER D FACILITY CONSTRUCTION
DIVISION 11 NEW LARGE TYPE B ASSISTED LIVING FACILITIES

§553.241. Construction Requirements for a New Large Type B Assisted Living Facility.

(a) Structurally sound. A new large Type B assisted living facility must ensure any building is structurally sound regarding actual or expected dead, live, and wind loads according to applicable building codes, as determined and enforced by local authorities.

(b) Separation of occupancies.

(1) A new large Type B assisted living facility must be separated from other occupancies by a fire barrier having at least a 2-hour fire resistance rating constructed according to the requirements of NFPA 101 and its referenced standards.

(2) A large Type B assisted living facility is not required to be separated from a hospital or nursing facility unless the separation is required by NFPA 101 or the standards for licensing the hospital or nursing facility.

(c) Construction type. A new large Type B assisted living facility must ensure a building housing the facility meets the requirements of 18.1.6, Minimum Construction Requirements, in NFPA 101, Chapter 18, New Health Care Occupancies.

(d) Interior finish. A new Large Type B assisted living facility must ensure interior wall, ceiling and floor finish materials meet the requirements of 18.3.3, Interior Finish, in NFPA 101, Chapter 18, New Health Care Occupancies.

(e) Vertical openings. A new large Type B assisted living facility must ensure vertical openings are protected according to the requirements of 18.3.1, Protection of Vertical Openings, in NFPA 101, Chapter 18, New Health Care Occupancies.

§553.242. Space Planning and Utilization Requirements for a New Large Type B Assisted Living Facility.

(a) Resident bedrooms.

(1) A new large Type B assisted living facility must ensure a resident bedroom or living unit is not located on a floor that is below finished ground level.

(2) A new large Type B assisted living facility must ensure bedroom usable floor space is not less than 100 square feet for a bedroom housing one resident and not less than 80 square feet per resident for a bedroom housing multiple residents, unless otherwise permitted by paragraphs (3) and (4) of this subsection. Portions of a bedroom that are less than 10 feet in the smallest dimension cannot be included

in the measurement of bedroom usable floor space, unless approved by HHSC.

(3) A new large Type B assisted living facility containing individual living units that include living space for the residents, in addition to their bedroom, may reduce the bedroom usable floor space for a bedroom housing multiple residents within a living unit by up to 10 percent of the required bedroom usable floor space, as long as the minimum dimensional criteria are maintained. A new large Type B assisted living facility must not use this provision in conjunction with the provision permitting the reduction of common social-diversional areas or common dining areas found in subsection (g)(6) of this section.

(4) A new large Type B assisted living facility must house no more than 50 percent of its licensed resident capacity in bedrooms housing three or more residents. A bedroom must not house more than four residents.

(b) Bedroom windows. A new large Type B assisted living facility must ensure each bedroom has at least one operable window with outside exposure and meeting the following requirements.

(1) The window sill [~~window sill~~] must be no higher than 44 inches above the floor.

(2) The window must be operable from the inside by a resident occupying the bedroom, [~~from the inside,~~] without the use of tools or special devices.

(3) The total area of all windows in a bedroom must not be less than eight percent of the minimum bedroom usable floor space required by subsection (a)(2) [~~(a)(3)~~] of this section.

(c) Bedroom furnishings. When a resident does not provide their own furnishings, a new large Type B assisted living facility must provide the following furnishings for each resident, which must be maintained in good repair:

(1) a bed including a mattress;

(2) a chair;

(3) a table or dresser; and

(4) private clothes storage space, which must have closable doors, and drawer space for clothing and personal belongings.

(d) Arrangement of resident living units or rooms.

(1) A new large Type B assisted living facility must ensure all resident rooms open on an exit, corridor, living area, or public area.

(2) A new large Type B assisted living facility must ensure a resident room is arranged for convenient resident access to dining and recreation areas.

(e) Staff area. A new large Type B assisted living facility must provide a staff area on each floor of a new large Type B assisted living facility and in each separate

building containing resident sleeping rooms. A new large Type B assisted living facility must provide the following at each staff area:

(1) a desk or writing surface;

(2) a telephone; and

(3) a fire alarm control unit or a fire alarm annunciator panel meeting the requirements of §553.245 of this division (relating to Fire Protection Systems Requirements for a New Large Type B Assisted Living Facility).

(f) Resident toilet and bathing facilities. A new large Type B assisted living facility must ensure each resident bedroom is served by a separate private toilet room, a connecting toilet room, or a general toilet room.

(1) A new large Type B assisted living facility that houses individuals of more than one gender must provide toilet rooms for each gender, or individual single-occupant toilet rooms for use by any gender.

(2) A new large Type B assisted living facility must ensure a general toilet room or bathing room is accessible from a corridor or public space.

(3) A new large Type B assisted living facility must ensure resident toilet and bathing facilities comply with the requirements for resident-use plumbing fixtures according to §553.247 of this division (relating to Mechanical Requirements for a New Large Type B Assisted Living Facility).

(g) Resident living areas.

(1) A new large Type B assisted living facility must provide, in a common area of the facility, social-diversional spaces with appropriate furniture. Examples of social-diversional spaces include living rooms, day rooms, lounges, dens, game rooms, and sunrooms.

(A) A new large Type B assisted living facility must provide a social-diversional space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of number of residents or other provisions of this section permitting a reduction in the total minimum social-diversional space.

(B) A new large Type B assisted living facility must ensure a social-diversional space has one or more exterior windows providing a view of the outside.

(C) A new large Type B assisted living facility must ensure the total space for social-diversional areas is provided on a sliding scale according to the following table. No space smaller than 120 square feet in area can be counted toward meeting this requirement.

Figure: 26 TAC §553.242(g)(1)(C) (No Change)

(2) A new large Type B assisted living facility must provide a dining area with

appropriate furniture.

(A) A new large Type B assisted living facility must provide a dining space with a minimum area of 120 square feet in at least one space within a common area of the facility, regardless of number of residents or other provisions of this section permitting a reduction in the total minimum dining space.

(B) A new large Type B assisted living facility must ensure a dining space has one or more exterior windows providing a view of the outside.

(C) A new large Type B assisted living facility must ensure a dining area is accessible from resident living units or bedrooms via a covered path.

(D) A new large Type B assisted living facility must ensure the total space for dining areas is provided on a sliding scale according to the following table. No space smaller than 120 square feet in area can be counted toward meeting this requirement.

Figure: 26 TAC §553.242(g)(2)(D) (No Change)

(3) A new large Type B assisted living facility may provide a total living and dining area combined in a single or interconnecting space where the minimum area of the combined space is at least 240 square feet.

(4) For calculation purposes, where a means of egress passes through a living or dining area, a new large Type B assisted living facility must deduct a pathway, equal to the minimum corridor width according to §553.243 of this division (relating to Means of Egress Requirements for a New Large Type B Assisted Living Facility), from the measured area of the space.

(5) A new large Type B assisted living facility must ensure a means of egress through a resident living or dining area is kept clear of obstructions, except as permitted by NFPA 101.

(6) Subject to the limitations of paragraphs (1)(A) and (2)(A) of this subsection and subparagraphs (A) and (B) of this paragraph, a new large Type B assisted living facility containing individual living units may reduce the minimum square footage required by paragraphs (1)(C) and (2)(D) of this subsection for total common social-diversional or common dining areas, respectively, by including up to 10 percent of the individual living unit area in the calculation of the total social-diversional area or total dining area.

(A) The individual living unit area contributed toward total social-diversional space or total dining space must not be counted more than once per living unit but may be split between social-diversional and dining space calculations.

(B) A new large Type B assisted living facility must not utilize both this paragraph and subsection (a)(3) of this section to reduce both the minimum square footage otherwise required for its common social-diversional or dining areas and the minimum square footage of usable floor space otherwise required in bedrooms housing multiple residents within a living unit.

(h) Storage areas. A new large Type B assisted living facility must provide sufficient separate storage spaces or areas for at least:

(1) administrative records, office supplies, and other storage needs related to administration;

(2) medications and medical supplies;

(3) equipment supplied by the facility for resident needs, including wheelchairs, walkers, beds, and mattresses;

(4) cleaning supplies, including for janitorial needs;

(5) food;

(6) clean linens and towels, if the facility furnishes linen;

(7) soiled linen, if the facility furnishes linen; and

(8) lawn and maintenance equipment.

(i) General kitchen.

~~[(1) A new large Type B assisted living facility that prepares food off site or in a separate building must ensure food is served at the proper temperature and transported in a sanitary manner.]~~

~~[(2) A new large Type B assisted living facility must ensure a kitchen meets the requirements of the local fire, building, and health codes.]~~

(1) ~~[(3)]~~ A new large Type B assisted living facility that prepares food onsite ~~[on-site]~~ must provide a kitchen or dietary area that includes ~~[to meet the general food service needs of the residents and must include]~~ space for the following:

(A) storage, refrigeration, preparation, and serving food;

(B) dish and utensil cleaning which includes:

(i) a three-compartment sink large enough to immerse pots and pans;
and

(ii) a mechanical dishwasher for washing and sanitizing dishes;

(C) a food preparation sink;

(D) a handwashing station in every food preparation area with a supply of hot and cold water, soap, a towel dispenser, and a waste receptacle;

(E) a handwashing lavatory that is readily accessible to every dish room area;

(F) refuse storage and removal; and

(G) floor drains in the kitchen and dishwashing areas. ~~and~~

~~[(H) a grease trap, if required by local authorities.]~~

~~(2)~~ [(4)] A new large Type B assisted living facility must ensure a kitchen is designed so that room temperature, at peak load or in the summer, does not exceed 85 degrees Fahrenheit measured throughout the room at five feet above the floor.

~~(3)~~ [(5)] A new large Type B assisted living facility must ensure the volume of supply air provided takes into account the large quantities of air that may be exhausted at the range hood and dishwashing area.

~~(4)~~ [(6)] A new large Type B assisted living facility must provide a supply of hot and cold water.

(A) Hot water for sanitizing purposes must be 180 degrees Fahrenheit.

(B) When chemical sanitizers are used, hot water must meet the manufacturer's suggested temperature.

~~(5)~~ [(7)] A new large Type B assisted living facility must maintain a separation between soiled and clean dish areas.

~~(6)~~ [(8)] A new large Type B assisted living facility must maintain a separation of air flow between soiled and clean dish areas.

(j) Kitchen restrooms.

(1) A new large Type B assisted living facility must provide a restroom facility for kitchen staff, including a lavatory, except as described in paragraph (2) of this subsection.

(A) The restroom facility must be directly accessible to kitchen staff without traversing resident use areas.

(B) The restroom must open into a service corridor or vestibule and not open directly into the kitchen.

(2) A new large Type B facility must ensure a kitchen serving a neighborhood or household provides a restroom accessible to kitchen staff located in close proximity to the kitchen.

(k) Kitchen janitorial facility.

(1) A new large Type B assisted living facility must provide janitorial facilities exclusively for the kitchen and located in the kitchen area except as described in paragraph (2) of this subsection.

(2) A new large Type B facility must ensure a kitchen serving a neighborhood or household provides a janitorial facility exclusively for the kitchen that is located in close proximity to the kitchen.

(3) A new large Type B assisted living facility must provide a garbage can or cart washing area with a floor drain and a supply of hot water. The garbage can or cart washing area may be in the interior or on the exterior of the facility.

(l) Finishes.

(1) A new large Type B assisted living facility must provide non-absorbent, smooth finishes or surfaces on all kitchen floors, walls, and ceilings.

(2) A new large Type B assisted living facility must provide non-absorbent, smooth, cleanable finishes on counter surfaces and all cabinet surfaces.

(3) A new large Type B assisted living facility must ensure surfaces are capable of being routinely cleaned and sanitized to maintain a healthful environment.

(m) Vision panels in communicating doors. A new large Type B assisted living facility must ensure a door between a kitchen and a dining area, serving area, or resident-use area, is provided with a vision panel with fixed safety glass. Where the door is a required fire door or is located in a fire barrier or other fire resistance-rated enclosure, the vision panel, including the glazing and the frame, must meet the requirements of NFPA 101.

(n) Auxiliary serving kitchens.

(1) A new large Type B assisted living facility must ensure an auxiliary serving kitchen is equipped to maintain required food temperatures.

(2) A new large Type B assisted living facility must ensure an auxiliary serving kitchen is equipped with a handwashing lavatory meeting the requirements of this subsection.

(3) A new large Type B assisted living facility must ensure all surfaces in an auxiliary serving kitchen meet the requirements for finishes in this section.

(o) Protection of cooking operations.

(1) A new large Type B assisted living facility must protect cooking facilities according to the requirements in §553.246 of this division (relating to Hazardous Area Requirements for a new Large Type B Assisted Living Facility).

(2) The following commercial or residential cooking equipment used only for reheating, and not for meal preparation, is not required to comply with the requirements of §553.246 of this division:

(A) microwave ovens;

(B) hot plates; or

(C) toasters.

(p) Food storage areas.

(1) A new large Type B assisted living facility must provide a food storage area large enough to consistently maintain a four-day minimum supply of non-perishable food. A food storage area may be located away from the food preparation area as long as there is space adjacent to the kitchen for necessary daily usage.

(2) A new large Type B assisted living facility must provide dollies, racks, pallets, wheeled containers, or shelving so that food is not stored on the floor and must ensure shelves are adjustable wire type shelving.

(3) A new large Type B assisted living facility must provide non-absorbent finishes or surfaces on all floors and walls in food storage areas.

(4) A new large Type B assisted living facility must provide effective ventilation in dry food storage areas to ensure positive air circulation.

(5) A new large Type B assisted living facility must ensure the maximum room temperature in a food storage area does not exceed 85 degrees Fahrenheit at any time when measured at the highest food storage level, but not less than five feet above the floor.

(q) Laundry and linen services.

(1) A new large Type B assisted living facility that co-mingles and processes laundry onsite [~~on-site~~] in a central location, regardless of the type of laundry equipment used, must ensure a laundry area:

(A) is separated from the assisted living building by a fire barrier having a one-hour fire resistance rating. This separation must extend from the floor to the floor or roof above;

(B) is protected throughout by a fire sprinkler system;

(C) has access doors that open to the exterior or to an interior non-resident use area, such as a vestibule or service corridor; and

(D) is provided with:

(i) a soiled linen receiving, holding, and sorting room with a floor drain and forced exhaust to the exterior;

(I) The exhaust must always operate when soiled linen is held in this area; and

(II) The area may be combined with the washer section;

(ii) a general laundry work area that is separated by partitioning a washer section and a dryer section;

(iii) a storage area for laundry supplies;

(iv) a folding area;

(v) an adequate air supply and ventilation for staff comfort without having to rely on opening a door that is part of the fire barrier separation required by subparagraph (A) of this paragraph; and

(vi) provisions to exhaust heat from dryers and to separate dryer make-up air from the habitable work areas of the laundry.

(2) If linen is processed off site, the facility must provide:

(A) a soiled linen holding room with adequate forced exhaust ducted to the exterior; and

(B) a clean linen receiving, holding, inspection, sorting or folding, and storage room.

(3) A new large Type B assisted living facility must ensure a laundry area for resident-use meets the following requirements.

(A) A new large Type B assisted living facility must ensure only residential type washers and dryers are provided in a laundry area for resident-use.

(B) When more than three washers and three dryers are provided in one laundry area for resident-use, the area must be:

(i) protected throughout by a fire sprinkler system; or

(ii) separated from the facility by a fire barrier having a one-hour fire resistance rating.

§553.245. Fire Protection Systems Requirements for a New Large Type B Assisted Living Facility.

(a) Fire alarm and smoke detection system. A new large Type B assisted living facility must provide a fire alarm system meeting the requirements of 18.3.4, Detection, Alarm, and Communications Systems, in NFPA 101, Chapter 18, New Health Care Occupancies, as modified by this section.

(1) General. A new large Type B assisted living facility must ensure the operation of any alarm initiating device automatically activates the manual fire alarm system evacuation alarm for the entire building.

(2) Smoke detectors.

(A) A new large Type B assisted living facility must install smoke detectors meeting the requirements of 18.3.4.5.3, Nursing Homes, [~~18.3.4.5.1, Corridors,~~] in NFPA 101, Chapter 18, New Health Care Occupancies.

(B) A new large Type B assisted living facility comprised of buildings containing living units with independent cooking equipment within the living unit, must additionally have:

(i) a smoke detector installed in all resident bedrooms, corridors,

hallways, living rooms, dining rooms, offices, kitchens and laundries within the living unit, that sounds an alarm only within the living unit; and

(ii) a heat detector installed in the kitchen within the living unit that activates the general alarm.

(3) Alarm control panel.

(A) A new large Type B assisted living facility must provide a fire alarm control unit, or a fire alarm annunciator providing annunciation of all fire alarm, supervisory, and trouble signals by audible and visible indicators, in a location visible to staff at or near the staff area that is attended 24 hours a day.

(B) A new large Type B assisted living facility is not required to ensure a fire alarm control unit or fire alarm annunciator is visible to staff if the fire alarm is monitored by devices carried by all staff.

(C) A new large Type B assisted living facility must ensure a fire alarm panel indicates each floor and smoke compartment, as applicable, as a separate zone. Each zone must provide an alarm and trouble indication. When all alarm initiating devices are addressable and the status of each device is identified on the fire alarm panel, zone indication is not required.

(4) Fire alarm power source.

(A) A new large Type B assisted living facility must ensure a fire alarm system is powered by a permanently wired [~~permanently wired~~], dedicated branch circuit that is powered from a commercial power source in accordance with NFPA 70.

(B) A new large Type B assisted living facility must provide a secondary, emergency power source meeting the requirements of NFPA 72.

(5) Emergency forces notification. A new large Type B assisted living facility must ensure a fire alarm system automatically notifies emergency forces according to the requirements of 18.3.4.3.2, Emergency Forces Notification, in NFPA 101, Chapter 18, New Health Care Occupancies.

(b) Fire sprinkler system. A new large Type B assisted living facility must provide a fire sprinkler system meeting the requirements of NFPA 13 in accordance with 18.3.5, in NFPA 101, Chapter 18, New Health Care Occupancies.

(c) Portable Fire Extinguishers. A new large Type B assisted living facility must provide and maintain portable fire extinguishers according to the requirements of NFPA 10.

(1) A new large Type B assisted living facility must ensure all requirements of NFPA 10 are followed for all extinguisher types, including requirements for location, spacing, mounting heights, monthly inspections by staff, yearly inspections by a licensed agent, any necessary servicing, and hydrostatic testing as recommended by the manufacturer.

(2) A new large Type B assisted living facility must ensure portable fire extinguishers are located in resident corridors so the travel distance from any point in the facility to an extinguisher is no more than 75 feet.

(3) A new large Type B assisted living facility must ensure the actual size of any portable fire extinguisher meets the requirements of NFPA 10 for maximum floor area per unit covered, but an extinguisher must be no smaller than the following.

(A) A water-type portable fire extinguisher must have a rating of at least 1-A according to NFPA 10.

(B) All other portable fire extinguishers must have a rating of at least 2-A:10-B:C according to NFPA 10.

(C) A facility must provide at least one approved 20-B:C portable fire extinguisher in each laundry, kitchen, and walk-in mechanical room.

(4) A new large Type B assisted living facility must ensure portable fire extinguishers are installed on hangers or brackets supplied with the extinguisher or mounted in an approved cabinet.

(5) A new large Type B assisted living facility must ensure a portable fire extinguisher is protected from impact or dislodgement.

(6) A new large Type B assisted living facility must ensure a portable fire extinguisher is installed at an appropriate height.

(A) A portable fire extinguisher having a gross weight of up to 40 pounds must be installed so the top of the extinguisher is not more than five feet above the floor.

(B) A portable fire extinguisher having a gross weight greater than 40 pounds must be installed so the top of the extinguisher is not more than three and a half feet above the floor.

(C) A portable fire extinguisher must be installed so the clearance between the bottom of the extinguisher and the floor is at least four inches.

(7) A portable extinguisher provided in a hazardous room must be located as close as possible to the exit access door leading from the room and on the latch or knob side of the door.

§553.246. Hazardous Area Requirements for a New Large Type B Assisted Living Facility.

(a) A new large Type B assisted living facility must meet the requirements of 18.3.2 [~~19.3.2~~], Protection from Hazards, in NFPA 101, Chapter 18 [~~19~~], New Health Care Occupancies.

(b) A new large Type B assisted living facility must ensure flammable or combustible liquids, including gasoline, oil-based paint, charcoal lighter fluid, or

similar products are not stored in a building housing residents.

(c) A new large Type B assisted living facility must protect any cooking operation according to the requirements of 18.3.2.5, Cooking Facilities, in NFPA 101, Chapter 18, New Health Care Occupancies.

TITLE 26 HEALTH AND HUMAN SERVICES
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SUBCHAPTER D FACILITY CONSTRUCTION
DIVISION 12 SPECIALIZED ASSISTED LIVING FACILITIES

§553.250. Construction Requirements for a Certified Alzheimer's Assisted Living Facility.

(a) Applicability. This section applies only to a Type B assisted living facility that has obtained a certification as a certified Alzheimer's assisted living facility according to the requirements of §553.27 of this chapter (relating to Certification of a Type B Facility or Unit for Persons with Alzheimer's Disease and Related Disorders) or §553.29 of this chapter (relating to Alzheimer's Certification of a Type B Facility for an Initial License Applicant in Good Standing) and chooses to:

(1) secure certified Alzheimer's assisted living facility means of escape or exit doors using the approved locking arrangements described in this section; or

(2) create one or more certified Alzheimer's assisted living units segregated from other parts of the Type B assisted living facility by control doors using the approved locking arrangements described in this section.

(b) Small, fully locked certified Alzheimer's assisted living facility. A small Type B assisted living facility that has an Alzheimer's certification for the full licensed capacity of the small Type B assisted living facility and chooses to secure control doors or exterior doors using the approved locking arrangements described in subsection (g) or (h) of this section must meet the requirements for a small Type B assisted living facility according to §553.100(e) of this subchapter (relating to General Requirements), except as modified by this subsection.

(1) Resident living areas.

(A) An existing small Type B assisted living facility must ensure resident living areas meet the requirements of §553.227(b) of this subchapter (relating to Mechanical Requirements for a New Small Type B Assisted Living Facility).

(B) A new small Type B assisted living facility must ensure resident living areas meet the requirements of §553.212(g) of this subchapter (relating to Space Planning and Utilization Requirements for a New Small Type A Assisted Living Facility).

(C) A small, fully locked certified Alzheimer's assisted living facility that contains two or more certified Alzheimer's assisted living units separated by control doors, located on one floor of a building, located on multiple floors of a building, or located in multiple buildings, must ensure resident living areas in each separate certified Alzheimer's assisted living unit meet the requirements for resident living areas in a small Type B assisted living facility for the capacity of each separate certified Alzheimer's assisted living unit.

(2) Resident-use plumbing fixtures.

(A) An existing small Type B assisted living facility must ensure resident-use plumbing fixtures meet the requirements of §553.127(b) of this subchapter (relating to Mechanical Requirements for an Existing Small Type B Assisted Living Facility).

(B) A new small Type B assisted living facility must ensure resident-use plumbing fixtures meet the requirements of §553.227(b) of this subchapter .

(C) A small, fully locked certified Alzheimer's assisted living facility that contains two or more certified Alzheimer's assisted living units separated by control doors, located on one floor of a building, located on multiple floors of a building, or located in multiple buildings, must ensure resident-use plumbing fixtures in each separate certified Alzheimer's assisted living unit meet the requirements for resident-use plumbing in a small Type B assisted living facility for the capacity of each separate certified Alzheimer's assisted living unit.

(3) Monitoring station or staff area. A small, fully locked certified Alzheimer's assisted living facility that occupies only one floor of a building, and is not divided into two or more separated certified Alzheimer's assisted living units, must provide a staff area as follows.

(A) An existing small Type B assisted living facility must meet the requirements for a staff area according to §553.122(e) of this subchapter (relating to Space Planning and Utilization Requirements for an Existing Small Type B Assisted Living Facility).

(B) A new small Type B assisted living facility must meet the requirements for a staff area according to §553.222(e) of this subchapter (relating to Space Planning and Utilization Requirements for a New Small Type B Assisted Living Facility).

(C) A small Type B assisted living facility must provide a monitoring station meeting the requirements of subsection (f) of this section in each separate certified Alzheimer's assisted living unit, except:

(i) in a small Type B assisted living facility that contains two or more certified Alzheimer's assisted living units on one floor separated by control doors, one monitoring station must meet the requirements for a staff area according to subparagraph (A) or (B) of this paragraph; and

(ii) in a small Type B assisted living facility that contains two or more certified Alzheimer's assisted living units located on two or more floors of a building or located in multiple buildings, one monitoring station on each floor and in each building must meet the requirements for a staff area according to subparagraph (A) or (B) of this paragraph.

(4) Means of escape.

(A) An existing small Type B assisted living facility must meet §553.123 of this subchapter (relating to Means of Escape Requirements for an Existing Small

Type B Assisted Living Facility) and must have at least two means of escape from every building and from every floor as required by NFPA 101.

(B) A new small Type B assisted living facility must meet the requirements of §553.223 of this subchapter (relating to Means of Escape Requirements for a New Small Type B Assisted Living Facility) and must have at least two means of escape from every building and from every floor as required by NFPA 101.

(5) Control doors. If control doors are locked, locking arrangements on control doors must meet the requirements of subsection (g) of this section.

(6) Exterior doors. If exterior doors are locked, locking arrangements on exterior doors must meet one of the following:

(A) the locking arrangement must meet the requirements for Delayed Egress Locking Systems in NFPA 101; or

(B) the locking arrangement must meet the requirements of subsection (h) of this section.

(7) Outdoor area. A small, fully locked certified Alzheimer's assisted living facility must provide an outdoor area meeting the requirements of subsection (j) of this section.

(c) Small Type B assisted living facility containing one or more certified Alzheimer's assisted living units. A small Type B assisted living facility that has a certified Alzheimer's capacity lower than the facility's licensed capacity and that has one or more certified Alzheimer's assisted living units must meet the requirements for a small Type B assisted living facility according to §553.100(e) of this subchapter, except as modified by this subsection.

(1) Resident living areas.

(A) An existing small Type B assisted living facility must ensure resident living areas meet the requirements of §553.122(g) of this subchapter.

(B) A new small Type B assisted living facility must ensure resident living areas meet the requirements of §553.212(g) of this subchapter.

(C) A small Type B assisted living facility that contains one or more certified Alzheimer's assisted living units must ensure resident living areas in each separate certified Alzheimer's assisted living unit meet the requirements for resident living areas in a small Type B assisted living facility for the capacity of each separate certified Alzheimer's assisted living unit.

(2) Resident-use plumbing fixtures.

(A) An existing small Type B assisted living facility must ensure resident-use plumbing fixtures meet the requirements of §553.127(b) of this subchapter.

(B) A new small Type B assisted living facility must ensure resident-use

plumbing fixtures meet the requirements of §553.227(b) of this subchapter.

(C) A small Type B assisted living facility that contains one or more certified Alzheimer's assisted living units must ensure resident-use plumbing fixtures in each separate certified Alzheimer's assisted living unit meet the requirements for resident-use plumbing fixtures in a small Type B assisted living facility for the capacity of each separate certified Alzheimer's assisted living unit.

(3) Monitoring station. A small Type B assisted living facility that contains one or more certified Alzheimer's assisted living units must provide staff areas and monitoring stations as follows.

(A) An existing small Type B assisted living facility must meet the requirements for a staff area as required by §553.122(e) of this subchapter.

(B) A new small Type B assisted living facility must meet the requirements for a staff area as required by §553.222(e) of this subchapter.

(C) A small Type B assisted living facility must provide a monitoring station meeting the requirements of subsection (f) of this section in each separate certified Alzheimer's assisted living unit.

(4) Means of escape.

(A) An existing small Type B assisted living facility must meet §553.123 of this subchapter and must have at least two means of escape from every building and from every floor as required by NFPA 101.

(B) A new small Type B assisted living facility must meet the requirements of §553.223 of this subchapter and must have at least two means of escape from every building and from every floor as required by NFPA 101.

(5) Control doors. If control doors are locked, locking arrangements on control doors must meet the requirements of subsection (g) of this section.

(6) Exterior doors. If exterior doors are locked, locking arrangements on exterior doors must meet one of the following:

(A) the locking arrangement must meet the requirements for Delayed Egress Locking Systems in NFPA 101; or

(B) the locking arrangement must meet the requirements of subsection (h) of this section.

(7) Outdoor area. A small, fully locked certified Alzheimer's assisted living facility must provide an outdoor area meeting the requirements of subsection (j) of this section.

(d) Large, fully locked certified Alzheimer's assisted living facility. A large Type B assisted living facility that has an Alzheimer's certification for the full licensed capacity of the assisted living facility and chooses to secure control doors or exit

doors using approved locking arrangements described in subsection (g) or (i) of this section must meet the requirements for a large Type B assisted living facility according to §553.100(e) of this subchapter, except as modified by this subsection.

(1) Resident living areas.

(A) An existing large Type B assisted living facility must ensure resident living areas meet the requirements of §553.142(g) of this subchapter (relating to Space Planning and Utilization Requirements for an Existing Large Type B Assisted Living Facility).

(B) A new large Type B assisted living facility must ensure resident living areas meet the requirements of §553.242(g) of this subchapter (relating to Space Planning and Utilization Requirements for a New Large Type B Assisted Living Facility).

(C) A large, fully locked certified Alzheimer's assisted living facility that contains two or more certified Alzheimer's assisted living units separated by control doors, located on one floor of a building, located on multiple floors of a building, or located in multiple buildings, must ensure resident living areas in each separate certified Alzheimer's assisted living unit meet the requirements for resident living areas in a Type B assisted living facility for the capacity of each separate certified Alzheimer's assisted living unit.

(2) Resident-use plumbing fixtures.

(A) An existing large Type B assisted living facility must ensure resident-use plumbing fixtures meet the requirements of §553.147(b) of this subchapter (relating to Mechanical Requirements for an Existing Large Type B Assisted Living Facility).

(B) A new large Type B assisted living facility must ensure resident-use plumbing fixtures meet the requirements of §553.247(b) of this subchapter (relating to Mechanical Requirements for a New Large Type B Assisted Living Facility).

(C) A large, fully locked certified Alzheimer's assisted living facility that contains two or more certified Alzheimer's assisted living units separated by control doors, located on one floor of a building, located on multiple floors of a building, or located in multiple buildings, must ensure resident-use plumbing fixtures in each separate certified Alzheimer's assisted living unit meet the requirements for resident-use plumbing in a large Type B assisted living facility for the capacity of each separate certified Alzheimer's assisted living unit.

(3) Monitoring station or staff area. A large, fully locked certified Alzheimer's assisted living facility that occupies only one floor of one building, and is not divided into two or more separate certified Alzheimer's assisted living units, must provide a staff area as follows.

(A) An existing large Type B assisted living facility must meet the

requirements for a staff area as required by §553.142(e) of this chapter.

(B) A new large Type B assisted living facility must meet the requirements for a staff area as required by §553.242(e) of this subchapter.

(C) A large Type B assisted living facility must provide a monitoring station in each separate certified Alzheimer's assisted living unit and meeting the requirements of subsection (f) of this section, except:

(i) in a large Type B assisted living facility that contains two or more certified Alzheimer's assisted living units on one floor separated by control doors, one monitoring station must meet the requirements for a staff area according to subparagraph (A) or (B) of this paragraph; and

(ii) in a large Type B assisted living facility that contains two or more certified Alzheimer's assisted living units located on two or more floors of a building, or located in multiple buildings, one monitoring station on each floor and in each building must meet the requirements for a staff area according to subparagraph (A) or (B) of this paragraph.

(4) Means of egress.

(A) An existing large Type B assisted living facility must meet §553.143 of this chapter (relating to Means of Egress Requirements for an Existing Large Type B Assisted Living Facility) and must have at least two means of egress from every building and from every floor as required by NFPA 101.

(B) A new large Type B assisted living facility must meet the requirements of §553.243 of this chapter (relating to Means of Egress Requirements for a New Large Type B Assisted Living Facility) and must have at least two means of egress from every building and from every floor according to NFPA 101.

(5) Control doors.

(A) Cross corridor control doors, if locked according to subparagraph (B) of this paragraph, must:

(i) be a pair of swinging doors arranged so that each door swings in a direction opposite from the other;

(ii) have door leaves that must each provide a minimum clear width of 32 inches; and

(iii) if latching, must have a knob, handle, panic bar, or other simple type of releasing device.

(B) If control doors are locked, locking arrangements on control doors must meet the requirements of subsection (g) of this section.

(6) Exit doors. If exit doors are locked, locking arrangements on exit doors must meet one of the following:

(A) the locking arrangement must meet the requirements for Delayed Egress Locking Systems in NFPA 101; or

(B) the locking arrangement must meet the requirements of subsection (i) of this section.

(7) Outdoor area. A large, fully locked certified Alzheimer's assisted living facility must provide an outdoor area meeting the requirements of subsection (k) of this section.

(e) Large Type B assisted living facility containing one or more certified Alzheimer's assisted living units. A large Type B assisted living facility that has a certified Alzheimer's capacity lower than the facility's licensed capacity and has one or more certified Alzheimer's assisted living units must meet the requirements for a large Type B assisted living facility according to §553.100(e) of this chapter, except as modified by this subsection.

(1) Resident living areas.

(A) An existing large Type B assisted living facility must ensure resident living areas meet the requirements of §553.142(g) of this subchapter.

(B) A new large Type B assisted living facility must ensure resident living areas meet the requirements of §553.242(g) of this subchapter.

(C) A large Type B assisted living facility that contains one or more certified Alzheimer's assisted living units must ensure resident living areas in each separate certified Alzheimer's assisted living unit meet the requirements for resident living areas in a large Type B assisted living facility for the capacity of each separate certified Alzheimer's assisted living unit.

(2) Resident-use plumbing fixtures.

(A) An existing large Type B assisted living facility must ensure resident-use plumbing fixtures meet the requirements of §553.147(b) of this subchapter.

(B) A new large Type B assisted living facility must ensure resident-use plumbing fixtures meet the requirements of §553.247(b) of this subchapter.

(C) A large Type B assisted living facility that contains one or more certified Alzheimer's assisted living units must ensure resident-use plumbing fixtures in each separate certified Alzheimer's assisted living unit meet the requirements for resident-use plumbing fixtures in a large Type B assisted living facility for the capacity of each separate certified Alzheimer's assisted living unit.

(3) Monitoring station. A large Type B assisted living facility that contains one or more certified Alzheimer's assisted living units must provide staff areas and monitoring stations as follows:

(A) an existing large Type B assisted living facility must meet the requirements for a staff area as required by §553.142(e) of this subchapter;

(B) a new large Type B assisted living facility must meet the requirements for a staff area as required by §553.242(e) of this chapter; and

(C) a large Type B assisted living facility must provide a monitoring station meeting the requirements of subsection (f) of this section in each separate certified Alzheimer's assisted living unit.

(4) Means of egress.

(A) An existing large Type B assisted living facility must meet §553.143 of this chapter and must have at least two means of egress from every building and from every floor as required by NFPA 101.

(B) A new large Type B assisted living facility must meet the requirements of §553.243 of this chapter and must have at least two means of egress from every building and from every floor as required by NFPA 101.

(5) Control doors.

(A) Cross corridor control doors, if locked according to subparagraph (B) of this paragraph, must:

(i) be a pair of swinging doors arranged so that each door swings in a direction opposite from the other;

(ii) have door leaves that must each provide a minimum clear width of 32 inches; and

(iii) if latching, must have a knob, handle, panic bar or other simple type of releasing device.

(B) If control doors are locked, locking arrangements on control doors must meet the requirements of subsection (g) of this section.

(6) Exit doors. If exit doors are locked, the locking arrangements on exit doors must:

(A) meet the requirements for Delayed Egress Locking Systems in NFPA 101;
or

(B) meet the requirements of subsection (i) of this section.

(7) Outdoor area. A large, fully locked certified Alzheimer's assisted living facility must provide an outdoor area meeting the requirements of subsection (k) of this section.

(f) Monitoring station requirements required by this section include:

(1) a writing surface, such as a desk or counter;

(2) a chair;

(3) task illumination at the task surface;

(4) a telephone or intercom; and

(5) lockable storage for resident records.

(g) Control door locking arrangements permitted by this section in a certified Alzheimer's assisted living facility must not be locked unless all the following requirements are met.

(1) The building must have an approved fire alarm system and an approved fire sprinkler system meeting the requirements of this subchapter.

(2) The locking device must be electronic and must be released when any of the following occurs:

(A) activation of the fire alarm system;

(B) activation of the fire sprinkler system;

(C) power failure to the certified Alzheimer's assisted living facility or to the locking device;

(D) activating a switch or button located at a monitoring station required by subsection (b) or (c) of this section; or

(E) activating a switch or button located at a staff area required by subsection (c) of this section.

(3) A keypad, credential reader, or buttons may be located at the control door for routine use by staff.

(4) Staff must be trained in all the methods of unlocking the control door.

(h) Exterior door locking arrangements for small certified Alzheimer's assisted living facilities permitted by this section must not be locked unless all the following requirements are met.

(1) The building must have an approved fire alarm system and an approved fire sprinkler system meeting the requirements of this subchapter.

(2) The locking device must be electro-magnetic; that is, no type of throw-bolt is to be used.

(3) The locking device must release when any of the following occurs:

(A) activation of the fire alarm system;

(B) activation of the fire sprinkler system;

(C) power failure to the small certified Alzheimer's assisted living facility or to the locking device;

(D) activating a switch or button located at a monitoring station required by subsection (b) or (c) of this section; or

(E) activating a switch or button located at a staff area required by subsection (c) of this section.

(4) A keypad, credential reader, or buttons may be located at the exterior door for routine use by staff.

(5) A sign must be provided adjacent to any manual fire alarm pull required by NFPA 101 stating, "Pull to release exterior doors in an emergency."

(6) Staff must be trained in all the methods of unlocking the door.

(i) Exit door locking arrangements for large certified Alzheimer's assisted living facilities permitted by this section must not be locked unless all the following requirements are met.

(1) The building must have an approved fire alarm system and an approved fire sprinkler system meeting the requirements of this subchapter.

(2) The locking device must be electro-magnetic; that is, no type of throw-bolt is to be used.

(3) The locking device must release when any of the following occurs:

(A) activation of the fire alarm system;

(B) activation of the fire sprinkler system;

(C) power failure to the large certified Alzheimer's assisted living facility or to the locking device;

(D) activating a switch or button located at a monitoring station required by subsection (d) or (e) of this section; or

(E) activating a switch or button located at a staff area required by subsection (e) of this section.

(4) A keypad, credential reader, or buttons may be located at the exterior door for routine use by staff.

(5) A manual fire alarm pull must be located within five feet of each exit door with a sign stating, "Pull to release door in an emergency."

(6) Staff must be trained in all the methods of unlocking the door.

(j) Outdoor area requirements for small certified Alzheimer's assisted living facilities required by subsection (b) or (c) of this section must meet the following requirements.

(1) The outdoor area must provide at least 800 square feet of area in at least one contiguous space.

(2) The outdoor area must be connected to, be part of, be controlled by, and be directly accessible from the small certified Alzheimer's assisted living facility.

(3) The outdoor area must be enclosed with walls or fencing that do not allow climbing or present a hazard to residents; and

(A) where a resident bedroom window does not face the wall or fence the minimum distance to the enclosure wall or fence from the building is eight feet if the wall or fence is parallel to the building;

(B) where a resident bedroom window faces the wall or fence the minimum distance to the enclosure wall or fence from the building is 20 feet if the wall or fencing is solid and 15 feet if the wall or fencing is open; and

(C) for unusual or unique site conditions, outdoor areas may have other configurations with the prior approval of HHSC.

(D) The minimum dimensions in subparagraphs (A) and (B) of this paragraph do not apply to:

(i) additional fencing erected along property lines; or

(ii) building setback lines for privacy or for meeting the requirements of local building authorities.

(4) A small certified Alzheimer's assisted living facility must provide at least one gate in the fence or wall with a continuous path of travel from the building to the gate.

(5) If any gate in the fence or wall is locked, the gate nearest the building must be locked with an electronic lock that operates the same as electronic locks specified in subsection (g) or (h) of this section and meet the requirements of NFPA 70 for exterior exposure.

(A) Additional gates may be locked according to the requirements of subsection (g) or (h) of this section or may be locked using keyed locks, provided all staff carry the keys at all times the staff are on duty at the small certified Alzheimer's assisted living facility.

(B) All gates may be locked using keyed locks, provided all staff carry the keys at all times the staff are on duty at the small certified Alzheimer's assisted living facility, and the outdoor area includes an area of refuge meeting the following requirements.

(i) If the small Type B assisted living facility obtained certification as a certified Alzheimer's assisted living facility before May 2, 2024, the area extends beyond a line parallel to the building at a minimum distance of 30 feet from the building.

(ii) If the small Type B assisted living facility obtained certification as a certified Alzheimer's assisted living facility on or after May 2, 2024, the area is located beyond a line parallel to the building at a minimum distance of 30 feet from the building.

(iii) The area of refuge must allow at least 15 square feet per person, including residents, staff, and visitors potentially present at the time of an emergency.

(k) Outdoor area requirements for large certified Alzheimer's assisted living facilities required by subsection (d) or (e) of this section must meet the following requirements.

(1) The outdoor area must provide at least 800 square feet of area in at least one contiguous space.

(2) The outdoor area must be connected to, be part of, be controlled by, and be directly accessible from the large certified Alzheimer's assisted living facility.

(3) The outdoor area must be enclosed with walls or fencing that do not allow climbing or present a hazard to residents and the following conditions apply.

(A) Where a resident bedroom window does not face the wall or fence the minimum distance to the enclosure wall or fence from the building is eight feet if the wall or fence is parallel to the building.

(B) Where a resident bedroom window faces the wall or fence the minimum distance to the enclosure wall or fence from the building is 20 feet if the wall or fencing is solid and 15 feet if the wall or fencing is open.

(C) For unusual or unique site conditions, outdoor areas may have other configurations with the prior approval of HHSC.

(D) The minimum dimensions in subparagraphs (A) and (B) of this paragraph do not apply to:

(i) additional fencing erected along property lines; or

(ii) building setback lines for privacy or for meeting the requirements of local building authorities.

(4) A large certified Alzheimer's assisted living facility must provide at least two means of egress from the enclosed outdoor area that are remote from each other and meet the requirements of NFPA 101.

(5) Where a required exit discharges into the enclosed area, a large certified Alzheimer's assisted living facility must meet the following additional requirements.

(A) If only one exit discharges into the enclosed area, a minimum of two gates must be remotely located from each other.

(B) If two or more exits discharge into the enclosed area and unrestricted entry access can be made at each door, a minimum of one gate is required.

(C) Any gate must be located to provide a continuous path of travel from the building exit to a public way, including walkways of concrete, asphalt, or other approved materials.

(D) If gates are locked, the gate nearest the exit from the building must be locked with an electronic lock that operates the same as electronic locks specified in subsection (g) or (i) of this section and meets the requirements of NFPA 70 for exterior exposure.

(i) Additional gates may be locked according to the requirements of subsection (g) or (i) of this section or be locked using keyed locks, provided all staff carry the keys at all times they are on duty at the large certified Alzheimer's assisted living facility.

(ii) All gates may be locked using keyed locks, provided all staff carry the keys at all times the staff are on duty at the large certified Alzheimer's assisted living facility and the outdoor area includes an area of refuge meeting the following requirements.

(I) If the large Type B assisted living facility or the certified Alzheimer's assisted living unit was certified as a certified Alzheimer's assisted living facility before May 2, 2024, the area extends beyond a line parallel to the building at a minimum distance of 30 feet from the building.

(II) If the large Type B assisted living facility or the certified Alzheimer's assisted living unit is certified as a certified Alzheimer's assisted living facility on or after May 2, 2024, the area is located beyond a line parallel to the building at a minimum distance of 30 feet from the building.

(III) The area of refuge must allow at least 15 square feet per person, including residents, staff, and visitors potentially present at the time of an emergency.

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 553 LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES
SUBCHAPTER E STANDARDS FOR LICENSURE

§553.253. Employee Qualifications and Training.

(a) Manager qualifications and training. ~~The~~ [Each] facility must designate, in writing, a manager to have authority over the operation.

(1) In a small facility [Qualifications. In small facilities], the manager must have proof of graduation from an accredited high school or certification of equivalency of graduation. ~~[In large facilities, a manager must have:]~~

(2) In a large facility, the manager must have:

(A) an associate [associate's] degree in nursing, health care management, or a related field;

(B) a bachelor's degree; or

(C) proof of graduation from an accredited high school or certification of equivalency of graduation and at least one year of experience working in management or in the health care industry [management].

(3) Manager training. A manager must complete a 24-hour training course on the management of assisted living facilities that meets the requirements in this subsection within the first 12 months of employment as manager.

~~[(2) Training in management of assisted living facilities. A manager must complete at least one educational course on the management of assisted living facilities, which must include information on the assisted living standards; resident characteristics (including dementia), resident assessment and skills working with residents; basic principles of management; food and nutrition services; federal laws, with an emphasis on accessibility requirements under the Americans with Disabilities Act; community resources; ethics, and financial management.]~~

~~[(A) The course must be at least 24 hours in length.]~~

~~[(i) A manager must complete eight hours of training on the assisted living standards within the first three months of employment.]~~

(A) [(ii)] The 24-hour training requirement may not be met through in-services at the facility, but may be met through structured, formalized classes, correspondence courses, training videos, or computer-based education programs [distance learning programs, or off-site training courses. All training must be provided or produced by academic institutions, assisted living corporations, or recognized state or national organizations or associations. Subject matter that deals with the internal affairs of an organization will not qualify for credit].

(B) The 24-hour training course must be provided or produced by academic institutions or established state or national assisted living organizations or

associations.

(C) Subject matter that deals with the internal affairs of an organization does not qualify for credit.

(D) The 24-hour course of education must include:

(i) eight hours based on the assisted living standards established by this chapter;

(ii) typical characteristics of residents in assisted living facilities, including dementia, and skills for working with residents;

(iii) conducting resident evaluations;

(iv) basic principles of management;

(v) food and nutrition services;

(vi) basic infection prevention and control principles;

(vii) federal laws, with an emphasis on accessibility requirements under the Americans with Disabilities Act;

(viii) use of community resources as they apply to residents in an assisted living facility;

(ix) ethics; and

(x) financial management.

~~[(iii) Evidence of training must be on file at the facility and must contain documentation of content, hours, dates, and provider.]~~

~~[(B) A manager who can show documentation of a previously completed comparable course of study are exempt from the training requirements.]~~

~~[(C) A manager must complete the training required by subparagraph (A) or (B) of this paragraph, as applicable, by the first anniversary of employment as manager.]~~

~~(E)[(D)]~~ An assisted living manager who was employed by a licensed assisted living facility as the manager and changes employment to another licensed assisted living facility as the manager, with a break in employment of no longer than 90 ~~[30]~~ days, is exempt from the 24-hour training requirement.

(4) ~~[(3)]~~ Continuing education for managers. After the first 12 months as manager, a manager must complete 12 hours of continuing education before the next anniversary of employment as manager. Annual continuing education must include at least two of the following topics: ~~[All managers must show evidence of 12 hours of annual continuing education. This requirement will be met during the first year of employment by the 24-hour assisted living management course. The annual~~

~~continuing education requirement must include at least two of the following areas:]~~

(A) resident and provider rights and responsibilities; ~~[, abuse and neglect, and confidentiality;]~~

(B) abuse, neglect and exploitation;

(C) resident and staff confidentiality;

(D) [(B)] basic principles of management;

(E) [(C)] skills for working with residents, families, and other professional service providers;

(F) [(D)] resident characteristics and needs;

(G) [(E)] community resources as they relate to residents;

(H) [(F)] accounting and budgeting;

(I) basic infection prevention and control principles;

(J) [(G)] basic emergency first aid, including the Heimlich maneuver; and [; or]

(K) [(H)] federal laws, such as the Americans with Disabilities Act of 1990, as amended; the Civil Rights Act of 1991; the Rehabilitation Act of 1973, as amended; the Family and Medical Leave Act of 1993; and the Fair Housing Act, as amended.

(5)[(4)] Manager's responsibilities. The manager must be on duty for at least 40 hours per week and may manage only one facility, except for managers of small Type A facilities, who: [may have responsibility for no more than 16 residents in no more than four facilities. The managers of small Type A facilities must be available by telephone or pager when conducting facility business off-site.]

(A) may have responsibility for no more than 16 residents in no more than four facilities; and

(B) must be available by phone when conducting facility business off-site.

(6) [(5)] Manager's absence. [An employee competent and authorized to act in the absence of the manager must be designated in writing.]

(A) The facility must designate in writing an authorized employee to act in the absence of the manager.

(B) The facility must ensure the employee designated to act in the manager's absence is competent to do so.

(C) The facility must maintain a record of the designated employee currently authorized to act in the manager's absence.

(b) Attendants. [Full-time facility attendants must be at least 18 years old or a high-

~~school graduate.]~~

(1) An attendant must be at least 18 years old or a high school graduate.

(2) [(1)] An attendant must be present [in the facility] at all times when residents are in the facility.

~~[(2) Attendants are not precluded from performing other functions as required by the facility.]~~

(c) Staffing.

(1) A facility must develop and implement staffing policies, which require staffing ratios based upon the needs and acuity of the residents, as identified in their service plans.

(2) A facility must have dedicated staff on duty for each shift and must not share on-duty staff with another licensed facility or provider type, such as another assisted facility, a home and community support services agency, or a nursing facility.

(3) A facility must disclose, to prospective residents and their families, the facility's normal 24-hour staffing pattern.

(A) A facility must post its normal 24-hour staffing pattern monthly in accordance with §553.291 of this subchapter (relating to Postings).

(B) A facility's posted 24-hour staffing pattern must include:

(i) the number of attendants scheduled to work each shift;

(ii) the number of nurses scheduled to work each shift if the facility has nurses on staff;

(iii) the number of medication aides scheduled to work each shift if the facility has medication aides on staff; and

(iv) office hours of the facility manager.

~~[(2) Prior to admission, a facility must disclose, to prospective residents and their families, the facility's normal 24-hour staffing pattern and post it monthly in accordance with §553.271 of this subchapter (relating to Postings).]~~

(4) [(3)] A facility must have sufficient staff to:

(A) maintain order, safety, and cleanliness;

(B) assist with medication regimens;

(C) prepare and serve meals that meet the daily nutritional and special dietary needs of each resident, in accordance with each resident's service plan;

(D) assist with laundry;

(E) ensure ~~[assure]~~ that each resident receives the kind and amount of supervision and care required to meet his or her basic needs, including specified nighttime care or supervision requirements; and

(F) ensure safe evacuation of the facility in the event of an emergency.

(5) A facility must not use a companion care provider or solicit or involve resident family members to provide care for a resident to mitigate staffing shortages.

(6) [(4)] A facility must meet the applicable staffing requirements for night shift as follows [described in this subparagraph].

(A) Type A facility: Night shift staff in a small facility must be immediately available. In a large facility, the staff must be immediately available and awake.

(B) Type B facility: Night shift staff must be immediately available and awake, regardless of the number of licensed beds.

(d) Staff training. The facility must document that staff ~~[members]~~ are competent to provide personal care before assuming these responsibilities and have received: ~~[the following training:]~~

(1) [All staff members must complete] four hours of orientation that covers [before assuming any job responsibilities. Training must cover], at a minimum: [the following topics:]

(A) reporting of abuse, neglect and exploitation ~~[and neglect]~~;

(B) confidentiality of resident information;

(C) universal precautions;

(D) conditions about which they should notify the facility manager;

(E) residents' rights; ~~[and]~~

(F) basic infection prevention and control principles; and

(G) [(F)] emergency and evacuation procedures.

(2) In addition to the requirements in paragraph (1) of this subsection, attendants [Attendants] must complete 16 hours of on-the-job supervision and training directly [within the first 16 hours of employment] following orientation. Training must include:

(A) assisting residents ~~[providing assistance]~~ with the activities of daily living;

(B) health conditions and diagnoses of residents in the facility and how they may affect provision of care ~~[resident's health conditions and how they may affect provision of tasks];~~

(C) safety measures to prevent accidents and injuries;

(D) emergency first aid procedures, such as the Heimlich maneuver and actions to take when a resident falls, suffers a laceration, or is experiencing ~~[experiences]~~ a sudden change in physical or cognitive ~~[mental]~~ status;

(E) managing disruptive behavior;

(F) behavior management, such as the ~~[for example,]~~ prevention of aggressive behavior and de-escalation techniques, ~~[practices to decrease the frequency of the use of restraint,]~~ and alternatives to restraints; ~~[and]~~

(G) basic infection prevention and control principles; and

(H)~~[(G)]~~ fall prevention.

(3) An attendant ~~[Direct care staff]~~ must complete six documented hours of continuing education annually, based on the individual's hire date. One hour of the annual continuing education must be in fall prevention and one hour must be in behavior management such as preventing aggressive behavior and de-escalation techniques and alternatives to restraints, and both topics must be competency-based. Subject matter for the annual continuing education must address the unique needs of the facility and may include ~~[each employee's hire date. Staff must complete one hour of annual training in fall prevention and one hour of training in behavior management, for example, prevention of aggressive behavior and de-escalation techniques, practices to decrease the frequency of the use of restraint, and alternatives to restraints. Training for these subjects must be competency-based. Subject matter must address the unique needs of the facility. Suggested topics include]~~:

(A) promoting resident dignity, independence, individuality, privacy, and choice;

(B) resident rights and principles of self-determination;

(C) communication techniques for working with residents with hearing, visual, or cognitive impairment;

(D) communicating with families and other persons interested in the resident;

(E) common physical, psychological, social, and emotional conditions and how these conditions affect residents' care;

(F) basic infection prevention and control principles;

(G) ~~[(F)]~~ essential facts about common physical, emotional, cognitive, and mental disorders such as ~~[, for example,]~~ arthritis, cancer, dementia, depression, heart and lung diseases, sensory problems, mental illness, and ~~[or]~~ stroke;

(H) ~~[(G)]~~ cardiopulmonary resuscitation (CPR);

(I) ~~[(H)]~~ common medications and side effects, including psychotropic medications; ~~[-when appropriate;]~~

(J) ~~[(I)]~~ recognizing the symptoms of a ~~[understanding]~~ mental health concern ~~[illness];~~

(K) ~~[(J)]~~ conflict resolution and de-escalation techniques; and

(L) ~~[(K)]~~ information regarding community resources as they relate to resident needs.

(4) A facility that employs ~~[Facilities that employ]~~ licensed nurses, certified nurse aides, or certified medication aides must ensure that staff members in these positions receive ~~[provide]~~ annual in-service training, appropriate to their job responsibilities, including ~~[from one or more of the following areas]:~~

(A) communication techniques and skills useful when ~~[providing geriatric care (skills for)]~~ communicating with the hearing impaired, visually impaired, and cognitively impaired; therapeutic touch; and recognizing communication that indicates psychological abuse~~[-];~~

(B) assessment and interventions related to the common physical and psychological changes of aging for each body system;

(C) geriatric pharmacology, including treatment for pain management, food and drug interactions, and sleep disorders;

(D) common emergencies of geriatric residents and how to prevent them, such as ~~[for example]~~ falls, choking on food or medicines, and injuries from restraint use;

(E) recognizing sudden changes in physical condition, such as stroke, heart attack, acute abdomen, acute angle-closure glaucoma, and respiratory distress and obtaining emergency treatment;

(F) ~~[(E)]~~ common mental and cognitive disorders with related nursing implications; and

(G) ~~[(F)]~~ ethical and legal issues regarding advance directives, abuse, neglect, and exploitation ~~[and neglect]~~, guardianship, and confidentiality.

§553.255. All Staff Policy for Residents with Alzheimer's Disease or a Related Disorder.

(a) A facility must adopt, implement, and enforce a written policy that:

(1) requires a facility employee who provides personal ~~[direct]~~ care services to a resident with Alzheimer's disease or a related disorder to successfully complete training in the provision of care to residents with Alzheimer's disease and related disorders; and

(2) ensures the care and services provided by a facility employee to a resident

with Alzheimer's disease or a related disorder meet the specific identified needs of the resident relating to the diagnosis of Alzheimer's disease or a related disorder.

(b) The training required for facility employees under subsection (a)(1) of this section must include information about:

- (1) symptoms of dementia;
- (2) stages of Alzheimer's disease;
- (3) person-centered behavioral interventions; and
- (4) communication with a resident with Alzheimer's disease or a related disorder.

§553.257. Personnel [~~Human Resources~~].

(a) Personnel records. A facility must keep current and complete personnel records on a facility employee for review by HHSC staff including:

- (1) documentation that the facility performed a criminal history check;
- (2) an annual employee misconduct registry check;
- (3) an annual nurse aide registry check;
- (4) documentation of initial tuberculosis screenings referenced in §553.277(e) [~~§553.261(f)~~] of this subchapter (relating to Infection Prevention and Control [~~Coordination of Care~~]);
- (5) documentation of the employee's compliance with or exemption from the facility vaccination policy referenced in §553.277(d) [~~§553.261(f)~~] of this subchapter;
- (6) the signed statement from the employee referenced in §553.293 [~~§553.273~~] of this subchapter (relating to Abuse, Neglect, or Exploitation and Incidents Reportable to HHSC by Facilities), acknowledging that the employee may be criminally liable for the failure to report abuse, neglect, and exploitation; and
- (7) a signed disclosure statement[~~7~~] indicating whether the employee:
 - (A) has been convicted of an offense described in Texas Health and Safety Code §250.006; and
 - (B) has lived in a state other than Texas within the past five years.

(b) Investigation of facility employees.

(1) A facility must comply with the provisions of Texas Health and Safety Code, Chapter 250.

(2) Before a facility hires an employee, the facility must search the employee misconduct registry (EMR) established under §253.007, Texas Health and Safety

Code, and the HHSC nurse aide registry (NAR) to determine if the individual is designated in either registry as unemployable based on employee misconduct. Both registries can be accessed on the HHSC Internet website.

(3) A facility is prohibited from hiring or continuing to employ a person who is listed in the EMR or NAR as unemployable or who has been convicted of an offense listed in Texas Health and Safety Code §250.006 as a bar to employment or is a contraindication to employment with the facility.

(4) A facility must provide notification about the EMR to an employee in accordance with §561.3 of this title [~~26 TAC §711.1413~~] (relating to Employment and Registry Information).

(5) In addition to the initial search of the NAR and the EMR, a facility must conduct a search of the NAR and the EMR at least once every 12 months to determine if the employee is designated in either registry as unemployable [~~at least every 12 months~~].

(6) A facility must keep a copy of the results of the initial and annual searches of the NAR and EMR in the employee's personnel file.

(7) If an applicant for employment indicates on the disclosure statement that he or she [~~they~~] have lived in another state within the past five years, the facility must conduct a name-based criminal history check in each state in which the applicant previously resided within the five-year period. A facility may hire the applicant pending the results of the name-based criminal history check in each state, but the employee must not be in a position that has direct contact with residents.

§553.259. Admission Policies and Procedures.

(a) Admission policies and disclosure statement.

(1) A facility must not admit a resident under the age of 18 years unless the person is an emancipated minor.

~~(2) [(1)] A facility must not admit [or retain] a resident whose needs cannot be met by the facility and who cannot secure the necessary services from an outside resource. [As part of the facility's general supervision and oversight of the physical and mental well-being of its residents, the facility remains responsible for all care provided at the facility. If the individual is appropriate for placement in a facility, then the decision that additional services are necessary and can be secured is the responsibility of facility management with written concurrence of the resident, resident's attending physician, or legal representative. Regardless of the possibility of "aging in place" or securing additional services, the facility must meet all NFPA-101 and physical plant requirements in Subchapter D of this chapter (relating to Facility Construction), and, as applicable, §553.311 (relating to Physical Plant Requirements for Alzheimer's Units), based on each resident's evacuation capabilities, except as provided in subsection (e) of this section.]~~

(3) [(2)] The facility must provide [There must be] a written admission

~~agreement to the resident before admitting the resident to the facility. [between the facility and the resident. The agreement must specify such details as services to be provided and the charges for the services. If the facility provides services and supplies that could be a Medicare benefit, the facility must provide the resident a statement that such services and supplies could be a Medicare benefit.]~~

(A) The agreement must specify such details as services to be provided and the charges for the services.

(B) If the facility provides services and supplies that could be a Medicare benefit, the facility must provide the resident a statement that such services and supplies could be a Medicare benefit.

(C) The admission agreement must not conflict with the standards set forth in this chapter.

(4) [(3)] A facility must share a copy of the facility's [facility] disclosure statement, rate schedule, and a resident's individual [resident] service plan with an outside resource that provides [outside resources that provide any additional] services to the [a] resident. An outside resource [Outside resources] must provide the facility [facilities] with a copy of its care plan for the resident [their resident-care plans] and must document, at the facility, any services provided to the resident [r] on the day provided.

(5) [(4)] In addition to the facility disclosure statement, a facility that advertises, markets, or otherwise promotes that it provides services, including memory care services, to residents with Alzheimer's disease and related disorders, must provide to each resident the Assisted Living Facility Memory Care Disclosure Statement. The facility must disclose whether the facility is certified to provide specialized care to residents with Alzheimer's disease or related disorders.

(A) A facility that is Alzheimer's certified and provides the Assisted Living Facility Memory Care Disclosure Statement to a resident, must also provide HHSC Form 3641, Alzheimer's Assisted Living Facility Disclosure Statement.

(B) A facility that is not Alzheimer's certified and provides the Assisted Living Facility Memory Care Disclosure Statement, to a resident does not need to provide HHSC form 3641, Alzheimer's Assisted Living Disclosure Statement.

~~[(5) Each resident must have a health examination by a physician performed within 30 days before admission or 14 days after admission, unless a transferring hospital or facility has a physical examination in the medical record.]~~

(6) The facility must secure, upon [at the time of] admission of a resident, the resident's [the following identifying information]:

(A) full name [of resident];

(B) Social Security [social security] number;

(C) usual residence (where the resident lived before admission);

- (D) sex;
- (E) marital status;
- (F) date of birth;
- (G) place of birth;
- (H) []usual occupation (during most of working life);
- (I) family, other persons named by the resident, and physician for emergency notification;
- (J) pharmacy preference; and
- (K) Medicaid/Medicare number, if applicable [~~available~~].

(7) A facility that allows pets must implement, maintain, and enforce a pet policy. The policy must address:

- (A) sanitation, including pest control;
- (B) safety, including any vaccination requirements or size restrictions;
- (C) compliance with any local codes or ordinances; and
- (D) service animals.

~~(b) Resident evaluation [assessment] and service plan. [Within 14 days of admission, a resident comprehensive assessment and an individual service plan for providing care, which is based on the comprehensive assessment, must be completed. The comprehensive assessment must be completed by the appropriate staff and documented on a form developed by the facility. When a facility is unable to obtain information required for the comprehensive assessment, the facility should document its attempts to obtain the information.]~~

(1) A resident must have a health examination by a healthcare practitioner performed within 30 days before admission or 14 days after admission unless a transferring hospital or facility has provided a physical examination as part of the resident's medical record.

(2) Within 14 days after admission, the facility must complete an evaluation of a resident and develop an individual service plan for providing care that is based on the resident evaluation. The resident evaluation must be performed by the manager or a nurse, as applicable to a resident's individual requirements. The resident evaluation must be documented on a form developed by the facility. When a facility is unable to obtain information required for the resident evaluation, the facility must document its attempts to obtain the information.

(3) After the first resident evaluation, the facility must conduct a resident evaluation annually and upon any significant change in the resident's condition and note and date any necessary changes to the resident's service plan based on the

most recent evaluation.

(4) Upon admission, the facility must conduct a resident evaluation on a resident admitted for respite care and develop an individual service plan based on the evaluation in accordance with this section. The facility may keep the service plan for six months from the date on which it is developed. During that period, the facility may admit the individual as frequently as needed.

(5) [(1)] A resident evaluation [The comprehensive assessment] must be conducted in person and include information regarding the resident's [the following items]:

(A) signed consent designating a legally authorized representative to make decisions on his or her behalf and the name and contact information for that person, if applicable;

(B) [(A)] location prior to admission [the location from which the resident was admitted];

(C) [(B)] primary language;

(D) [(C)] sleep-cycle issues;

(E) [(D)] behavioral symptoms;

(F) [(E)] psychosocial issues [(i.e., a psychosocial functioning assessment that includes an assessment of mental or psychosocial adjustment difficulty; a screening for signs of depression, such as withdrawal, anger or sad mood; assessment of the resident's level of anxiety; and determining if the resident has a history of psychiatric diagnosis that required in-patient treatment)];

(G) [(F)] history of Alzheimer's disease or related disorders [disease/dementia history];

(H) [(G)] activities of daily living patterns such as wakening [(e.g., wakened) to toilet all or most nights, bathing in the morning or night, and preferring showering or bathing [bathed in morning/night, shower or bath)];

(I) [(H)] involvement patterns and preferred activity pursuits such as [e.g., daily contact with relatives or [,] friends, attendance at [usually attended] religious services, involvement [involved] in group activities, preferred activity settings, and general activity preferences[)];

(J) [(I)] cognitive skills for daily decision-making such as [(e.g.,] independent, modified independent [independence], moderately impaired, or severely impaired[)];

(K) [(J)] communication such as [(e.g.,] ability to communicate with others and use of [,] communication devices[)];

(L) [(K)] physical functioning such as [(e.g.,] transfer status, [,] ambulation

status, toilet use, personal hygiene, and ability to dress, feed, and groom self];

(M) ~~(L)~~ continence status;

(N) ~~(M)~~ nutritional status including ~~(e.g.,)~~ weight changes, nutritional problems or approaches, any food allergies and intolerances, therapeutic diets, and diets in observation of religious practices [];

(O) ~~(N)~~ oral/dental status;

(P) ~~(O)~~ diagnoses;

(Q) ~~(P)~~ medications including whether ~~(e.g.,)~~ administered, supervised, or self-administered ~~[self-administers]~~];

(R) ~~(Q)~~ health conditions and possible medication side effects;

(S) ~~(R)~~ special treatments and procedures;

(T) ~~(S)~~ hospital admissions within the past six months or since last evaluation~~[assessment]~~; [and]

(U) ~~(T)~~ preventive health needs such as ~~(e.g.,)~~ blood pressure monitoring and~~,~~ hearing-vision assessment; [].

(V) barriers to communicating in spoken English; and

(W) use of assistive devices, as defined in §553.3 of this chapter (relating to Definitions), in order to achieve the highest practicable quality of life and independence.

(6) ~~(2)~~ The service plan must be approved and signed by the resident or, if applicable, the resident's legally authorized representative, or acknowledged in writing by a person chosen by the resident to participate in the resident's care ~~[responsible for the resident's health care decisions]~~.

(A) The facility must provide care according to the service plan. ~~[The service plan must be updated annually and upon a significant change in condition, based upon an assessment of the resident.]~~

(B) The facility must provide a copy of a resident's service plan to the resident or, as applicable, the resident's legally authorized representative upon admission.

~~[(3) For respite clients, the facility may keep a service plan for six months from the date on which it is developed. During that period, the facility may admit the individual as frequently as needed.]~~

~~[(4) Emergency admissions must be assessed, and a service plan developed for them.]~~

(c) Resident policies.

(1) The facility must ~~[Before admitting a resident, facility staff must]~~ explain the facility's disclosure statement and provide a copy of it ~~[the disclosure statement]~~ to the resident ~~[, family,]~~ or the resident's responsible party. A facility that provides brain injury rehabilitation services must attach to its disclosure statement a specific statement that licensure as an assisted living facility does not indicate state review, approval, or endorsement of the facility's rehabilitative services. The facility must document that a copy of the disclosure statement was delivered and to whom ~~[receipt of the disclosure statement]~~.

(2) The facility must provide residents with a copy of the Resident's Bill of Rights.

(3) When a resident is admitted, the facility must provide to the resident's legally authorized representative or responsible party ~~[immediate family]~~, and document the applicable party's ~~[family's]~~ receipt of, the HHSC telephone hotline number to report suspected abuse, neglect, or exploitation, as referenced in §553.293 ~~[§553.273]~~ of this subchapter (relating to Abuse, Neglect, or Exploitation and Incidents Reportable to HHSC by Facilities).

(4) The facility must have written policies regarding the characteristics of residents accepted, services provided, charges, refunds, responsibilities of the facility and residents, use of facility space and amenities by ~~[privileges of]~~ residents, and other rules and regulations that residents must follow and make a copy available to a resident, legally authorized representative, or responsible party.

~~[(5) The facility must make available copies of the resident policies to staff and to residents or residents' responsible parties at time of admission.]~~

(5) The facility must notify residents and their legally authorized representatives, as applicable, whenever there are any important changes to resident ~~[Documented notification of any changes to the]~~ policies referenced in paragraph (4) of this subsection at least 30 days ~~[must occur]~~ before the effective date of the changes.

(6) ~~[Before or upon admission of a resident, a]~~ The facility must provide a document that contains HHSC rules and the facility's policies relating to restraint and seclusion prior to or upon admission ~~[notify the resident and, if applicable, the resident's legally authorized representative, of HHSC rules and the facility's policies related to restraint and seclusion].~~

(7) The facility must provide a resident and the resident's legally authorized representative with a written copy of the facility's emergency preparedness plan or an evacuation summary, as required under §553.295(d) ~~[§553.275(d)]~~ of this subchapter (relating to Emergency Preparedness and Response.)

(8) A facility that uses an electronic method for any documentation or notification required under this subsection must implement a procedure for printing the information for a resident, legally authorized representative, or responsible

party who requests a printed copy.

(d) Advance directives.

(1) The facility must develop, maintain, and enforce written policies regarding the implementation of advance directives. The policies must include a clear and precise statement of any procedure the facility is unwilling or unable to provide or withhold such as cardiopulmonary resuscitation (CPR) in accordance with an advance directive.

(2) A facility that employs a nurse must ensure policies address nurse interventions during an emergent situation in accordance with Texas Board of Nursing rules at Texas Administrative Code (TAC), Title 22 §217.11 (relating to Standards of Nursing Practice).

(3) ~~[(2)]~~ The facility must provide written notice of these policies to residents upon admission to the facility ~~[at the time they are admitted to receive services from the facility].~~

(A) If, at the time notice is to be provided, the resident is incompetent or otherwise incapacitated and unable to receive the notice, the facility must provide the written notice, in the following order of preference, to:

(i) the resident's legal guardian;

(ii) the resident's legally authorized representative ~~[a person responsible for the resident's health care decisions];~~

(iii) the resident's spouse;

(iv) the resident's adult child; or

(v) the resident's parents; ~~[or~~

~~[(vi) the person admitting the resident.]~~

(B) If the facility is unable, after a diligent search, to locate an individual listed under subparagraph (A) of this paragraph, the facility is not required to give notice.

(4) ~~[(3)]~~ If a resident who was incompetent or otherwise incapacitated and unable to receive notice regarding the facility's advance directives policies later becomes able to ~~[receive the notice]~~, the facility must provide the written notice at the time the resident becomes able to receive the notice.

(5) ~~[(4)]~~ HHSC imposes an administrative penalty of \$500 for failure to inform the resident of facility policies regarding the implementation of advance directives.

(A) HHSC sends a facility written notice of the recommendation for an administrative penalty.

(B) Within 20 days after the date on which HHSC sends written notice to a

facility, the facility must give written consent to the penalty or make a written request to HHSC for an administrative hearing.

(C) Hearings will be ~~[are]~~ held in accordance with the formal hearing procedures at 1 TAC Chapter 357, Subchapter I (relating to Hearings Under the Administrative Procedures Act).

~~[(e) Inappropriate placement in Type A or Type B facilities.]~~

~~[(1) HHSC or a facility may determine that a resident is inappropriately placed in the facility if the resident experiences a change of condition but continues to meet the facility evacuation criteria.]~~

~~[(A) If HHSC determines the resident is inappropriately placed and the facility is willing to retain the resident, the facility is not required to discharge the resident if, within 10 working days after receiving the Statement of Licensing Violations and Plan of Correction, Form 3724, and the Report of Contact, Form 3614-A, from HHSC, the facility submits the following to the HHSC regional office:]~~

~~[(i) Physician's Assessment, Form 1126, indicating that the resident is appropriately placed and describing the resident's medical conditions and related nursing needs, ambulatory and transfer abilities, and mental status;]~~

~~[(ii) Resident's Request to Remain in Facility, Form 1125, indicating that:]~~

~~[(I) the resident wants to remain at the facility; or]~~

~~[(II) if the resident lacks capacity to provide a written statement, the resident's family member or legally authorized representative wants the resident to remain at the facility; and]~~

~~[(iii) Facility Request, Form 1124, indicating that the facility agrees that the resident may remain at the facility.]~~

~~[(B) If the facility initiates the request for an inappropriately placed resident to remain in the facility, the facility must complete and date the forms described in subparagraph (A) of this paragraph and submit them to the HHSC regional office within 10 working days after the date the facility determines the resident is inappropriately placed, as indicated on the HHSC prescribed forms.]~~

~~[(2) HHSC or a facility may determine that a resident is inappropriately placed in the facility if the facility does not meet all requirements for the evacuation of a designated resident referenced in §553.5 of this chapter (relating to Types of Assisted Living Facilities).]~~

~~[(A) If, during a site visit, HHSC determines that a resident is inappropriately placed at the facility and the facility is willing to retain the resident, the facility must request an evacuation waiver, as described in subparagraph (C) of this paragraph, to the HHSC regional office within 10 working days after the date the facility receives the Statement of Licensing Violations and Plan of Correction, Form 3724, and the Report of Contact, Form 3614-A. If the facility is not willing to retain the~~

~~resident, the facility must discharge the resident within 30 days after receiving the Statement of Licensing Violations and Plan of Correction and the Report of Contact.]~~

~~[(B) If the facility initiates the request for a resident to remain in the facility, the facility must request an evacuation waiver, as described in subparagraph (C) of this paragraph, from the HHSC regional office within 10 working days after the date the facility determines the resident is inappropriately placed, as indicated on the HHSC-prescribed forms.]~~

~~[(C) To request an evacuation waiver for an inappropriately placed resident, a facility must submit to the HHSC regional office:]~~

~~[(i) Physician's Assessment, Form 1126, indicating that the resident is appropriately placed and describing the resident's medical conditions and related nursing needs, ambulatory and transfer abilities, and mental status;]~~

~~[(ii) Resident's Request to Remain in Facility, Form 1125, indicating that:]~~

~~[(I) the resident wants to remain at the facility; or]~~

~~[(II) if the resident lacks capacity to provide a written statement, the resident's family member or legally authorized representative wants the resident to remain at the facility;]~~

~~[(iii) Facility Request, Form 1124, indicating that the facility agrees that the resident may remain at the facility;]~~

~~[(iv) a detailed emergency plan that explains how the facility will meet the evacuation needs of the resident, including:]~~

~~[(I) specific staff positions that will be on duty to assist with evacuation and their shift times;]~~

~~[(II) specific staff positions that will be on duty and awake at night; and]~~

~~[(III) specific staff training that relates to resident evacuation;]~~

~~[(v) a copy of an accurate facility floor plan, to scale, that labels all rooms by use and indicates the specific resident's room;]~~

~~[(vi) a copy of the facility's emergency evacuation plan;]~~

~~[(vii) a copy of the facility fire drill records for the last 12 months;]~~

~~[(viii) a copy of a completed Fire Marshal/State Fire Marshal Notification, Form 1127, signed by the fire authority having jurisdiction (either the local Fire Marshal or State Fire Marshal) as an acknowledgement that the fire authority has been notified that the resident's evacuation capability has changed;]~~

~~[(ix) a copy of a completed Fire Suppression Authority Notification, Form 1129, signed by the local fire suppression authority as an acknowledgement that~~

~~the fire suppression authority has been notified that the resident's evacuation capability has changed;~~

~~[(x) a copy of the resident's most recent comprehensive assessment that addresses the areas required by subsection (c) of this section and that was completed within 60 days, based on the date stated on the evacuation waiver form submitted to HHSC;~~

~~[(xi) the resident's service plan that addresses all aspects of the resident's care, particularly those areas identified by HHSC, including:]~~

~~[(I) the resident's medical condition and related nursing needs;~~

~~[(II) hospitalizations within 60 days, based on the date stated on the evacuation waiver form submitted to HHSC;~~

~~[(III) any significant change in condition in the last 60 days, based on the date stated on the evacuation waiver form submitted to HHSC;~~

~~[(IV) specific staffing needs; and]~~

~~[(V) services that are provided by an outside provider;]~~

~~[(xii) any other information that relates to the required fire safety features of the facility that will ensure the evacuation capability of any resident; and]~~

~~[(xiii) service plans of other residents, if requested by HHSC.]~~

~~[(D) A facility must meet the following criteria to receive a waiver from HHSC:]~~

~~[(i) The emergency plan submitted in accordance with subparagraph (C)(iv) of this paragraph must ensure that:]~~

~~[(I) staff is adequately trained;~~

~~[(II) a sufficient number of staff are on all shifts to move all residents to a place of safety;~~

~~[(III) residents will be moved to appropriate locations, given health and safety issues;~~

~~[(IV) all possible locations of fire origin areas and the necessity for full evacuation of the building are addressed;~~

~~[(V) the fire alarm signal is adequate;~~

~~[(VI) there is an effective method for warning residents and staff during a malfunction of the building fire alarm system;~~

~~[(VII) there is a method to effectively communicate the actual location of the fire; and]~~

~~[(VIII) the plan satisfies any other safety concerns that could have an effect on the residents' safety in the event of a fire; and]~~

~~[(ii) the emergency plan will not have an adverse effect on other residents of the facility who have waivers of evacuation or who have special needs that require staff assistance.]~~

~~[(E) HHSC reviews the documentation submitted under this subsection and notifies the facility in writing of its determination to grant or deny the waiver within 10 working days after the date the request is received in the HHSC regional office.]~~

~~[(F) Upon notification that HHSC has granted the evacuation waiver, the facility must immediately initiate all provisions of the proposed emergency plan. If the facility does not follow the emergency plan, and there are health and safety concerns that are not addressed, HHSC may determine that there is an immediate threat to the health or safety of a resident.]~~

~~[(G) HHSC reviews a waiver of evacuation during the facility's annual renewal licensing inspection.]~~

~~[(3) If an HHSC surveyor determines that a resident is inappropriately placed at a facility and the facility either agrees with the determination or fails to obtain the written statements or waiver required in this subsection, the facility must discharge the resident.]~~

~~[(A) The resident is allowed 30 days after the date of notice of discharge to move from the facility.]~~

~~[(B) A discharge required under this subsection must be made notwithstanding:]~~

~~[(i) any other law, including any law relating to the rights of residents and any obligations imposed under the Property Code; and]~~

~~[(ii) the terms of any contract.]~~

~~[(4) If a facility is required to discharge the resident because the facility has not submitted the written statements required by paragraph (1) of this subsection to the HHSC regional office, or HHSC denies the waiver as described in paragraph (2) of this subsection, HHSC may:]~~

~~[(A) assess an administrative penalty if HHSC determines the facility has intentionally or repeatedly disregarded the waiver process because the resident is still residing in the facility when HHSC conducts a future onsite visit; or]~~

~~[(B) seek other sanctions, including an emergency suspension or closing order, against the facility under Texas Health and Safety Code, Chapter 247, Subchapter C, if HHSC determines there is a significant risk and immediate threat to the health and safety of a resident of the facility.]~~

~~[(5) The facility's disclosure statement must notify the resident and resident's-~~

~~legally authorized representative of the waiver process described in this section and the facility's policies and procedures for aging in place.]~~

~~[(6) After the first year of employment and no later than the anniversary date of the facility manager's hire date, the manager must show evidence of annual completion of HHSC training on aging in place and retaliation.]~~

§553.261. Inappropriate Placement in a Type A or Type B Facility.

(a) An HHSC surveyor or a facility may determine that a resident is inappropriately placed in the facility if the resident experiences a change of condition.

(1) If an HHSC surveyor or a facility determines a resident is inappropriately placed but the resident continues to meet the facility evacuation criteria according to §553.5 of this chapter (relating to Types of Assisted Living Facilities), the facility must follow the process in subsection (b) of this section.

(2) If an HHSC surveyor or a facility determines a resident is inappropriately placed and the resident can no longer meet facility evacuation criteria according to §553.5 of this chapter, the facility must follow the process in subsection (c) of this section, including applying for an evacuation waiver from HHSC.

(b) If both the resident and the facility want the resident to remain despite an HHSC surveyor or the facility determining that the resident is inappropriately placed, the facility is not required to discharge the resident if, within 10 working days after receiving the Statement of Licensing Violations and Plan of Correction, Form 3724, and the Report of Contact, Form 3614-A, from HHSC, the facility submits to the HHSC regional office:

(1) a completed Physician's Assessment, Form 1126, indicating that the resident is appropriately placed and describing the resident's medical conditions and related nursing needs, ambulatory and transfer abilities, and cognitive status;

(2) a completed Resident's Request to Remain in Facility, Form 1125, indicating that:

(A) the resident wants to remain at the facility; or

(B) if the resident lacks capacity to provide a written statement, the resident's legally authorized representative or responsible party wants the resident to remain at the facility; and

(3) a completed Facility Request, Form 1124, indicating that the facility agrees that the resident may remain at the facility.

(c) If, during a site visit, HHSC determines that a resident is inappropriately placed at the facility and both the resident and the facility want the resident to remain, the facility must request an evacuation waiver, as described in paragraph (1) of this

subsection, to the HHSC regional office within 10 working days after the date the facility receives the Statement of Licensing Violations and Plan of Correction, Form 3724, and the Report of Contact, Form 3614-A.

(1) To request an evacuation waiver for an inappropriately placed resident, a facility must submit to the HHSC regional office:

(A) a completed Physician's Assessment, Form 1126, indicating that the resident is appropriately placed and describing the resident's medical conditions and related nursing needs, ambulatory and transfer abilities, and mental status;

(B) a completed Resident's Request to Remain in Facility, Form 1125, indicating that:

(i) the resident wants to remain at the facility; or

(ii) if the resident lacks capacity to provide a written statement, the resident's family member or legally authorized representative wants the resident to remain at the facility;

(C) a completed Facility Request, Form 1124, indicating that the facility agrees that the resident may remain at the facility;

(D) a detailed emergency plan that explains how the facility will meet the evacuation needs of the resident, including:

(i) specific staff positions that will be on duty to assist with evacuation and their shift times;

(ii) specific staff positions that will be on duty and awake at night; and

(iii) specific staff training that relates to resident evacuation;

(E) a copy of an accurate facility floor plan, to scale, that labels all rooms by use and indicates the specific resident's room;

(F) a copy of the facility's emergency evacuation plan;

(G) a copy of the facility fire drill records for the last 12 months;

(H) a copy of a completed Fire Marshal/State Fire Marshal Notification, Form 1127, either:

(i) signed by the fire authority having jurisdiction (either the local Fire Marshal or State Fire Marshal) as an acknowledgement that the fire authority has been notified that the resident's evacuation capability has changed; or

(ii) signed by the facility acknowledging notification to the fire authority having jurisdiction (either the local Fire Marshal or State Fire Marshal) that the resident's evacuation capability has changed;

(I) a copy of a completed Fire Suppression Authority Notification, Form 1129, either:

(i) signed by the local fire suppression authority as an acknowledgement that the fire suppression authority has been notified that the resident's evacuation capability has changed; or

(ii) signed by the facility acknowledging notification to the local fire suppression authority that the resident's evacuation capability has changed;

(J) a copy of the resident's most recent resident evaluation that addresses the areas required by subsection (c) of this section and that was completed within the previous 60 days, based on the date stated on the evacuation waiver form submitted to HHSC;

(K) the resident's service plan that addresses all aspects of the resident's care, particularly those areas identified by HHSC, including:

(i) the resident's medical condition and related nursing needs;

(ii) hospitalizations within the previous 60 days, based on the date stated on the evacuation waiver form submitted to HHSC;

(iii) any significant change in condition in the previous 60 days, based on the date stated on the evacuation waiver form submitted to HHSC;

(iv) specific staffing needs; and

(v) services that are provided by an outside resource;

(L) any other information that relates to the required fire safety features of the facility that will ensure the evacuation capability of any resident; and

(M) copies of service plans of other residents, if requested by HHSC.

(2) A facility must meet the following criteria to receive a waiver from HHSC.

(A) The emergency plan submitted in accordance with paragraph (1)(D) of this subsection must ensure that:

(i) staff is adequately trained;

(ii) a sufficient number of staff are on all shifts to move all residents to a

place of safety;

(iii) residents will be moved to appropriate locations, given health and safety issues;

(iv) all possible locations of fire origin areas and the necessity for full evacuation of the building are addressed;

(v) the fire alarm signal is adequate;

(vi) there is an effective method for warning residents and staff during a malfunction of the building fire alarm system;

(vii) there is a method to effectively communicate the actual location of the fire; and

(viii) the plan satisfies any other safety concerns that could adversely affect residents' safety in the event of a fire; and

(B) the emergency plan must not adversely affect other residents of the facility who have waivers of evacuation or who have special needs that require staff assistance.

(3) HHSC reviews the documentation submitted under this section and notifies the facility in writing of its determination to grant or deny the waiver within 10 working days after the date the request is received in the HHSC regional office.

(4) Upon notification that HHSC has granted the evacuation waiver, the facility must immediately initiate all provisions of the proposed emergency plan. If the facility does not follow the emergency plan, and there are health and safety concerns that are not addressed, HHSC may determine that there is an immediate threat to the health or safety of a resident.

(5) HHSC reviews a waiver of evacuation during the facility's annual renewal licensing inspection.

(d) If HHSC determines that a resident is inappropriately placed at a facility and the facility either agrees with the determination or fails to obtain the written statements or waiver required in this section, the facility must discharge the resident.

(1) The resident is allowed 30 days after the date of notice of discharge to move from the facility.

(2) A discharge required under this subsection must be made notwithstanding:

(A) any other law, including any law relating to the rights of residents and any obligations imposed under the Property Code; and

(B) the terms of any contract.

(e) If a facility is required to discharge the resident because the facility has not submitted the written statements required by this section to the HHSC regional office, or HHSC denies the waiver as described in subsection (c) of this section, HHSC may:

(1) assess an administrative penalty if HHSC determines the facility has intentionally or repeatedly disregarded the waiver process because the resident is still residing in the facility when HHSC conducts a future onsite visit; or

(2) seek other sanctions, including an emergency suspension or closing order against the facility under Texas Health and Safety Code, Chapter 247, Subchapter C, if HHSC determines there is a significant risk and immediate threat to the health and safety of a resident.

(f) The facility's disclosure statement must notify a resident and resident's legally authorized representative of the waiver process described in this section and the facility's policies and procedures for aging in place.

§553.263. Resident Transfer and Discharge.

(a) The facility must have and enforce a policy relating to resident transfer and discharge. The policy must:

(1) ensure a process of written transfer or discharge in accordance with subsection (c) of this section;

(2) be written in a manner the resident and the resident's legally authorized representative, if applicable, understands; and

(3) address whether a facility has a process for appealing a discharge, and if so, state that the appeals process:

(A) allows a resident 10 calendar days from the date of the discharge notice to challenge a discharge or transfer for just cause; and

(B) informs the resident of the availability of intervention and assistance.

(b) A facility may transfer or discharge a resident only if:

(1) the transfer or discharge is for the resident's welfare and the resident's needs cannot be met by the facility;

(2) the resident's health is improved sufficiently so that services are no longer needed and both the resident and the facility wish to terminate the admission agreement;

(3) the resident's health and safety or the health and safety of another resident would be endangered if the transfer or discharge was not made;

(4) the facility ceases to operate or to participate in the program that reimburses the facility for the resident's treatment or care; or

(5) the resident fails, after reasonable and appropriate notice, to pay the facility for services.

(c) Except in an emergency, as provided in subsection (f) of this section, a facility must provide a resident written notice of transfer or discharge at least 30 days before the date of transfer or discharge. The notice must state:

(1) that the facility intends to transfer or discharge the resident;

(2) the reason for the transfer or discharge;

(3) the effective date of the transfer or discharge;

(4) if the resident is to be transferred, the location to which the resident will be transferred; and

(5) the facility's appeal rights available to the resident, if any.

(d) A facility must develop a plan of transfer or discharge with input from the resident, the resident's health care practitioners, attending physician, and the resident's legally authorized representative, if applicable.

(e) A facility may immediately transfer or discharge a resident only:

(1) at the request of the resident or the resident's legally authorized representative;

(2) if the resident's medical needs require transfer, such as in a medical emergency; or

(3) if the resident creates a serious or immediate threat to the health, safety, or welfare of another resident.

(f) When a facility transfers or discharges a resident, the facility must ensure that the transfer or discharge is documented in the resident's record and appropriate information is communicated to the receiving provider.

(1) Documentation must include:

(A) the reason for the transfer or discharge; and

(B) if the transfer or discharge is related to the facility's inability to meet the resident's needs:

(i) the specific resident's needs that cannot be met;

(ii) any change in the resident's condition that precipitated the facility's inability to meet the resident's needs;

(iii) all facility attempts to meet the needs of the resident; and

(iv) that the facility provided the resident and the resident's legally authorized representative or interested party with contact information for the toll-free number of the Ombudsman Program.

(2) A facility must obtain and retain documentation of the resident's physician's order for transfer or discharge in the resident's record when it is the reason for transfer or discharge.

(3) If the transfer or discharge is to protect the health and safety of another resident, the facility must have documentation in the resident's record of:

(A) the facility's reasonable efforts to mitigate and diffuse risks; and

(B) notice to HHSC of incidents when the resident created a serious or immediate threat to the health, safety, or welfare of other residents of the facility and the results of the facility investigation of the incidents.

(4) If the facility transfers a resident, the facility must retain documentation of all information the facility provided to the receiving health care institution or provider. The documentation must include all information necessary to ensure a safe and effective transition of care, including:

(A) contact information of the practitioner responsible for the care of the resident;

(B) resident legally authorized representative or responsible party's information, including contact information, if applicable;

(C) resident advance directive orders;

(D) all special instructions or precautions for ongoing care, as appropriate;

(E) current service plan; and

(F) transfer or discharge plan and summary.

§553.265. Respite Admissions.

(a) A person admitted for respite services is a resident and has all of the rights and privileges of a resident as stated in this chapter. A facility that admits a resident for respite services must do so in accordance with §553.259 of this division (relating to Admission Policies and Procedures).

(b) A facility must not provide respite admission for an individual who is receiving hospice services for the purposes of hospice inpatient care or hospice residential care.

(c) A facility must not admit a resident for respite services if it causes the facility to exceed its licensed capacity.

(d) A facility must ensure it has adequate staffing to meet the needs of residents admitted for the purposes of respite care and services.

§553.267. Medications.

(a) Medication services.

(1) A facility that provides medication administration, supervision, or storage must develop and implement policies and procedures for:

(A) residents who self-administer their medications;

(B) facility staff assisting or supervising a resident's medication regimen;

(C) medication administration by facility staff;

(D) medication storage;

(E) medication disposal; and

(F) if the facility stores controlled drugs, prevention of controlled drug diversions including:

(i) identification and management of controlled drug diversions;

(ii) notification and reporting procedures for identified controlled drug diversions; and

(iii) storage of controlled drugs.

(2) A facility that provides medication administration or supervision must have policies and procedures to ensure staff are available to administer or supervise and assist a resident with a medication according to the prescribing practitioner's orders.

(3) A facility that provides medication administration or supervision must maintain, for a resident who receives that service:

(A) a medication profile record which lists, from the prescription label of each prescribed medication, the medication's:

(i) name;

(ii) strength;

(iii) dosage;

(iv) date and quantity received;

(v) directions for use;

(vi) route of administration;

(vii) prescription number; and

(viii) name of dispensing pharmacy; and

(B) a medication administration record that records:

(i) the name of any medication administered;

(ii) the date and time of administration;

(iii) the dose the resident received; and

(iv) whether a dose of medication was taken, missed, or refused, and the reason for missed doses; however, the recording of medication administration does not apply when the resident is away from the facility.

(4) A facility that provides medication administration or supervision must have a procedure to assist a resident who is away from the facility to maintain his or her medication regimen. To help with this, the facility may:

(A) ask the resident's health care practitioner to prescribe a medication schedule that coincides with the resident's presence in the facility; or

(B) give the medications to the resident or their family member upon leaving the facility.

(5) If the facility provides either of the methods under paragraph (4) of this subsection to assist a resident with medication while away, the facility must document the procedures that were followed in the resident's record.

(6) A facility that uses a preferred pharmacy must inform a resident of his or her right to choose his or her own pharmacy and document a resident's choice in the resident's record.

(A) If a facility uses a preferred pharmacy, the facility must develop and implement policies and procedures for a preferred pharmacy that identify:

(i) the name, address, and phone number of the facility's preferred pharmacy;

(ii) a description of the facility's expectation for medication packaging and delivery including the individual responsible for receiving medication deliveries at the facility; and

(iii) a cost analysis breakdown of any fee imposed on residents relating to the facility's preferred pharmacy that includes specifications on how the fee will be used.

(B) If the facility charges a fee for residents who receive medication administration or supervision but choose not to use the facility's preferred pharmacy, the facility must:

(i) waive the preferred pharmacy fee for a resident whose chosen pharmacy provides delivery and packaging options that meet the delivery and packaging requirements identified in the facility's policies and procedures; and

(ii) waive the preferred pharmacy fee for a resident who can provide or arrange ongoing delivery of medications that meets the delivery and packaging requirements identified in the facility's policies and procedures.

(C) A resident for whom the facility provides medication administration or supervision services who uses a pharmacy other than the facility's preferred pharmacy must sign a document authorizing the use of the facility's preferred pharmacy and acknowledging the resident's responsibility for any related costs in the event the resident's chosen pharmacy or arranged delivery service cannot provide a medication timely in accordance with the prescribing practitioner's order.

(b) Self-administration of medication.

(1) The facility must allow and encourage a resident [residents] who can self-administer his or her own medications without assistance to do so.

(2) In order to facilitate a resident's self-administration of a medication, staff may prepare and make available such items as water, juice, cups, and spoons.

(3) The facility must counsel a resident who self-administers his or her medications to ascertain whether the resident remains capable of doing so and whether security of medications can continue to be maintained:

(A) no less than once a month; and

(B) whenever the resident experiences a significant change in condition, as defined in §553.3 of this chapter (relating to Definitions) that might affect the resident's ability to self-administer his or her medications; or

(C) the resident's health care practitioner advises that the resident's medication regimen has changed due to suspected medication administration errors or noncompliance with his or her medication regimen.

(4) The facility must keep a written record of counseling that includes:

(A) resident name and date of counseling;

(B) resident current diagnoses; and

(C) documentation that the resident understands the medications he or she currently takes, including possible side effects and storage requirements.

(c) Supervision of a resident's medication regimen.

(1) A facility may supervise or assist with a resident's medication regimen if the resident is incapable of self-administering a medication without assistance. Medication supervision and assistance is limited to:

(A) obtaining medications from a pharmacy and listing the medications on a resident's medication profile record, as described in subsection (a) of this section;

(B) reminding a resident to take medications at the prescribed time;

(C) opening containers or packages and replacing lids;

(D) pouring a prescribed dose according to the medication profile record;

(E) handing poured medication to a resident, or using a hand over hand assistance method if the resident needs help getting the medication to his or her mouth, and monitoring and documenting whether the medication is taken or refused, in accordance with subsection (a) of this section;

(F) returning medications to the proper locked areas; and

(G) preparing and making available such items as water, juice, cups, and spoons.

(2) The facility must ensure that a person who supervises or assists with a resident's medication regimen:

(A) observes the resident take the medication;

(B) records a missed dose in the resident's record, in accordance with paragraph (a)(4) of this section; and

(C) reports any concerns about a resident's reaction to a medication or suspected noncompliance with the prescribed medication regimen to the resident's prescribing health care practitioner and primary health care practitioner and documents it in the resident's record.

(d) Facility administration of medication.

(1) Residents who choose not to or who cannot self-administer their medications must have their medications administered by a person who:

(A) holds a current license to administer the medication;

(B) holds a current medication aide permit and who:

(i) acts under the authority of a person who holds a current nursing license under state law that authorizes the licensee to administer medication; and

(ii) functions under the direct supervision of a licensed nurse on duty or on call by the facility; or

(C) is an employee of the facility to whom medication administration has been delegated by a registered nurse who has trained the employee to administer medications or verified their training in accordance with Texas Board of Nursing rules at Texas Administrative Code (TAC), Title 22, Chapter 225 (relating to RN Delegation to Unlicensed Personnel and Tasks Not Requiring Delegation in Independent Living Environments for Clients with Stable and Predictable Conditions).

(2) A resident's prescribed medication must be dispensed through a pharmacy or by the resident's treating practitioner.

(3) Practitioner sample medications may be given to a resident by the facility provided the medication has specific dosage instructions for the resident.

(4) Medications provided to the facility by an entity other than a pharmacy or physician, such as from a resident's family, home health provider, or hospice provider, must have an accompanying active and current prescribing practitioner's order.

(e) General.

(1) Facility staff must, as soon as practicable but within 24 hours, report any unusual reaction to a medication to the resident's prescribing health care practitioner, primary health care practitioner, and legally authorized representative, and document it in the resident's record.

(2) The facility must contact a resident's primary health care provider and legally authorized representative whenever health changes occur that may be attributed to the resident's medications.

(3) The facility must document any unusual reactions to medications or treatments, actions taken, and monitoring of reactions in the resident's record.

(f) Storage.

(1) The facility must provide a locked area for all medications. Examples of areas include:

(A) a central storage area;

(B) a medication cart; and

(C) a resident's room.

(2) The facility must store each resident's medications in their original containers with the labels intact, separately from all other residents' medications.

(3) A refrigerator must have a designated and locked storage area for medications that require refrigeration unless the refrigerator is inside a locked medication room or the resident's room.

(4) Poisonous substances and medications labeled for "external use only" must be stored separately within the locked medication area.

(5) A resident who self-administers and keeps prescribed, over-the-counter, or potentially hazardous or dangerous medications or ointments in his or her room must have a designated storage area that prevents unauthorized access to the medications, such as a lock box or self-locking room door that remains closed when the resident is not present.

(6) Residents who choose to keep their medications locked in the central medication storage area may be permitted entrance or access to the area for the purpose of self-administering their own medication or treatment regimen. A facility

staff member must remain in or at the storage area the entire time any resident is present.

(g) Disposal.

(1) At least quarterly, a facility must dispose of medications that:

(A) have been discontinued by order of the resident's prescribing practitioner;

(B) remain after a resident is deceased or has transferred or discharged without taking the medications per paragraph (5) of this subsection; or

(C) have passed the expiration date.

(2) Medication destruction must be carried out by a licensed pharmacist, which can include a medication take-back program or pharmacy disposal drop-off unit.

(3) The facility must inventory and store medications awaiting disposal separately from current resident medications.

(4) Needles and hypodermic syringes with needles attached must be disposed of as required by 25 TAC §§1.131 - 1.137 (relating to Definition, Treatment, and Disposal of Special Waste from Health Care-Related Facilities).

(5) A resident's medications must be released, upon transfer or discharge, to the resident when a receipt has been signed by the resident or, as applicable, the resident's legally authorized representative.

§553.269. Accident, Injury, or Acute Illness.

(a) In the event of accident or injury that requires emergency medical, dental, or nursing care, such as from a fall or unexpected loss of consciousness, or in the event of apparent death, the facility must:

(1) make arrangements for emergency care or transfer to an appropriate place for treatment, such as a practitioner's office, clinic, or hospital, and back to the facility;

(2) immediately notify the resident's practitioner and resident's legally authorized representative; and

(3) describe and document the injury, accident, or illness. The report must contain a statement of final disposition and the facility must retain the report in accordance with §553.285 of this subchapter (relating to Resident Records and Retention).

(b) The facility must stock and maintain, in a single location that is always accessible to staff, first aid supplies to treat burns, cuts, and poisoning.

(c) Residents who need the services of professional nursing or medical personnel due to a temporary illness or injury may have those services delivered by persons

qualified to deliver the necessary service, in accordance with §553.7 of this chapter (relating to Assisted Living Facility Services).

§553.271. Health Care Professional.

(a) A health care professional may coordinate the provision of services to a resident within the professional's scope of practice and as authorized under Texas Health and Safety Code, Chapter 247; however, a facility must not provide ongoing services to a resident that are comparable to the services available in a nursing facility licensed under Texas Health and Safety Code, Chapter 242.

(b) A resident may contract to have health care services delivered to the resident at the facility by a home and community support services agency licensed under Chapter 558 of this title (relating to Licensing Standards for Home and Community Support Services Agencies) or with an independent health professional of the resident's choice.

§553.273. Activities Program.

(a) The facility must plan and offer a daily activity that is consistent with resident choice and preferences and that promotes the physical, mental, and social well-being of the residents.

(b) The facility must develop and follow a written daily activity schedule and, at least monthly, post the schedule in accordance with §553.291 of this subchapter (relating to Postings).

(c) The facility must encourage but never force a resident to participate in activities.

§553.275. Dietary Services.

(a) Food Preparation.

(1) A facility that prepares food off-site or in a separate building must ensure food is served at the proper temperature and transported in a sanitary manner.

(2) A facility that prepares food onsite must provide a kitchen or dietary area meeting the general food service needs of the residents and must ensure that the kitchen:

(A) is equipped to store, refrigerate, prepare, and serve food;

(B) is equipped to clean and sterilize food preparation surfaces, dishes, cookware and bakeware, cooking utensils, and eating utensils;

(C) provides for refuse storage and removal; and

(D) meets the requirements of the local fire, building, and health codes.

(b) Dietary staff.

(1) The facility must designate an employee to be responsible for the total food service of the facility.

(2) The facility must ensure that staff who work with or handle unpackaged food, food equipment or utensils, or food contact surfaces, complete an accredited food handler training course approved by the Texas Department of State Health Services or the American National Standards Institute.

(c) Diets and menus.

(1) The facility must offer at least three meals a day that include all five basic food groups in accordance with USDA Dietary Guidelines for Americans, at regularly scheduled times, with no more than a 16-hour span between a substantial evening meal and breakfast the following morning. The five basic food groups include protein, dairy, grains, vegetables, and fruits.

(2) Food must be palatable and vary from week to week, taking into consideration resident preferences, including cultural preferences.

(3) The facility must provide a therapeutic diet as ordered by a resident's practitioner according to the resident's service plan.

(4) Therapeutic diets that cannot customarily be prepared by a layperson must be calculated by a qualified dietician.

(5) The facility may prepare and serve a therapeutic diet that can customarily be prepared by a person in a family setting.

(6) The facility must plan and post menus at least one week in advance, in accordance with §553.291 of this subchapter (relating to Postings) and menus must be followed as posted.

(7) Reasons for any variations from the posted menus must be documented and communicated to residents as soon as practicable.

(8) The facility must prepare menus that provide a nutritious, well-balanced diet that meets each resident's daily nutritional and special dietary needs and conscientious dietary preferences accounting for food allergies and intolerances, therapeutic diets, and diets in observation of religious practices, as documented in a resident's individual service plan in accordance with §553.259 of this subchapter (relating to Admission Policies and Procedures).

(9) The facility must retain records of menus as served for at least 30 days following the date of serving.

(d) Food supply and storage.

(1) The facility must maintain on the premises a supply of pantry-stable foods sufficient for a minimum of a four-day period and perishable foods for a minimum of a two-day period; and

(A) obtain foods from sources that comply with all laws relating to food and food labeling;

(B) store and label shelf-stable foods removed from their original packaging in plastic containers with tight fitting lids;

(C) store foods requiring refrigeration, such as meat and milk products, at 41 degrees Fahrenheit or below; and

(D) reseal or tightly seal, label, and date foods subject to spoilage.

(2) The facility must prepare and serve food with the least possible manual contact, with suitable utensils, and on surfaces that have been cleaned, rinsed, and sanitized before use to prevent cross-contamination; and

(A) keep hot foods at 135 degrees Fahrenheit or above during preparation and serving, and reheat foods to a minimum of 165 degrees Fahrenheit;

(B) keep freezers at a temperature of zero degrees Fahrenheit or below; and

(C) keep refrigerators at a temperature of 41 degrees Fahrenheit or below, with the thermometer placed in the warmest area of the refrigerator and freezer to ensure proper temperature.

(e) Dietary hygiene and sanitation.

(1) Dietary staff, including staff that serves food to residents, must maintain appropriate hand hygiene and take all precautions to prevent contamination of food, including wearing gloves whenever applicable, and throwing away disposable gloves after one use.

(2) The facility must ensure that any food service employee who is infected with a communicable disease that can be transmitted by foods, a carrier of organisms that cause such a disease, or afflicted with a boil, an infected wound, or an acute respiratory infection not work in the food service area in any capacity until fully recovered from the illness or infection.

(3) Effective hair restraints including facial hair restraints, as applicable, must be worn by any individual assisting with food or working in a food service and preparation area, to prevent contamination of food.

(4) Tobacco products must not be used in the food preparation and service areas.

(5) Kitchen employees must wash their hands before returning to work after using the lavatory.

(6) Dishwashing chemicals used in the kitchen may be stored in plastic containers if they are the original containers in which the manufacturer packaged the chemicals.

(7) A facility must follow sanitary dishwashing procedures and techniques.

(8) A facility must comply with local health ordinances or requirements for storing, preparing, and distributing food; cleaning dishes, equipment, and work area; and storing and disposing of waste.

(9) Facilities licensed for 17 or more residents must comply with Texas Administrative Code, Title 25 Chapter 228 (relating to Retail Food Establishments).

§553.277. Infection Prevention and Control.

(a) A facility must develop, implement, enforce, and maintain an infection prevention and control program that will provide a safe, sanitary, and comfortable environment and help prevent development and transmission of disease and infection.

(1) The infection prevention and control program must include policies and procedures that reduce the risk of spreading communicable diseases in the facility, including:

(A) monitoring key infectious agents, including multidrug-resistant organisms, as those terms are defined in §553.3 of this chapter (relating to Definitions);

(B) making a rapid influenza diagnostic test, as defined in §553.3 of this chapter, available to a resident who is exhibiting flu like symptoms;

(C) wearing personal protective equipment, such as gloves, a gown, or a mask when called on for anticipated exposure, and properly cleaning hands before and after touching another resident and in between glove changes;

(D) cleaning and disinfecting environmental surfaces, including doorknobs, handrails, light switches, control panels, and remote controls;

(E) using universal precautions for blood and bodily fluids; and

(F) removing soiled items (such as used tissues, wound dressings, incontinence briefs, and soiled linens) from the environment at least once daily, or more often if an infection or infectious disease is present or suspected.

(2) Personnel must handle, store, process, and transport linens in a manner that prevents the spread of infection.

(3) If a facility knows or suspects an employee has contracted a communicable disease that is transmissible to residents through food handling or direct resident care, the facility must exclude the employee from providing these services for the applicable period of communicability.

(4) A facility must maintain evidence of compliance with local and state health codes and ordinances regarding employee and resident health status.

(5) A facility must immediately report the name of any resident with a reportable disease as specified in Texas Administrative Code, Title 25, Chapter 97,

Subchapter A (relating to Control of Communicable Diseases), to the city health officer, county health officer, or health unit director having jurisdiction, and implement appropriate infection control procedures as directed by the local health authority.

(b) During a declared public health emergency or disaster that impacts a facility, in addition to the rules in this section, a facility must also follow Chapter 570 Subchapter B of this title (relating to Assisted Living Facilities).

(c) A facility must comply with rules regarding special waste in 25 TAC Chapter 1, Subchapter K (relating to Definition, Treatment, and Disposition of Special Waste from Health Care-Related Facilities).

(d) A facility's infection prevention and control program must include a policy to protect residents from vaccine preventable diseases in accordance with Texas Health and Safety Code, Chapter 224, and subsection (e) of this section.

(1) The policy must:

(A) require employees and contractors to receive facility-determined vaccines based on the level of risk the employee or contractor presents to residents in routine and direct exposure.

(B) specify the vaccines an employee or contractor is required to receive in accordance with subparagraph (A) of this paragraph;

(C) include procedures for the facility to verify that an employee or contractor has complied with the policy;

(D) include procedures for the facility to exempt an employee or contractor from the required vaccines for the medical conditions identified as contraindications or precautions by the Centers for Disease Control and Prevention (CDC);

(E) include procedures the employee or contractor must follow to protect residents from exposure to disease from an employee or contractor who is exempt from the required vaccines, based on the level of risk the employee or contractor presents during routine and direct exposure to residents, such as:

(i) use of protective equipment, such as gloves and masks; and

(ii) reassignment of the employee or contractor to work with residents who are vaccinated or have reduced risk of contracting vaccine-preventable diseases;

(F) prohibit discrimination or retaliatory action against an employee or contractor who is exempt from the required vaccines for the medical conditions identified as contraindications or precautions by the CDC, except that required use of protective medical equipment, including gloves and masks, may not be considered retaliatory action;

(G) require the facility to maintain a written or electronic record of each

employee's or contractor's compliance with or exemption from the policy; and

(H) include disciplinary actions the facility may take against an employee or contractor who fails to comply with the policy.

(2) The policy may:

(A) include procedures for an employee or contractor to be exempt from the required vaccines based on reasons of conscience, including religious beliefs; and

(B) prohibit an employee or contractor who is exempt from the required vaccines from having contact with residents during a public health disaster, as defined in Texas Health and Safety Code §81.003.

(e) A facility's infection prevention and control program must include a policy to minimize the risk for transmission of tuberculosis (TB).

(1) A facility must screen a new employee for TB within two weeks of employment, according to CDC screening guidelines and any additional guidance from HHSC.

(A)The facility must provide annual TB education to employees that includes the following:

(i) TB risk factors;

(ii) the signs and symptoms of TB disease; and

(iii) TB infection control policies and procedures.

(B) The facility may request evidence of TB screening and annual TB education from all persons who provide services under an outside resource contract.

(2) The facility's policies and procedures for resident TB screening must ensure compliance with the recommendations of a resident's attending physician and consistency with CDC guidelines. Residents have the right to refuse TB screening in accordance with §553.287 of this subchapter (relating to Rights).

§553.279. Restraints and Seclusion.

(a) Use of restraints.

(1) All restraints for purposes of behavioral management, staff convenience, or resident discipline are prohibited. Seclusion is prohibited.

(2) As provided in §553.287(a) of this subchapter (relating to Rights), a facility may use physical or chemical restraints only:

(A) if the use is authorized in writing by a physician and specifies:

(i) the circumstances under which a restraint may be used; and

(ii) the duration for which the restraint may be used; or

(B) if the use is necessary in an emergency to protect the resident or others from injury.

(3) For all situations outside of a behavioral emergency, a restraint must only be administered by an individual who is licensed, certified, or otherwise authorized to administer health care, including a physician, registered nurse, and licensed vocational nurse.

(4) A behavioral emergency is a situation in which severely aggressive, destructive, violent, or self-injurious behavior exhibited by a resident:

(A) poses a substantial risk of imminent probable death of, or substantial bodily harm to, the resident or others;

(B) has not abated in response to attempted preventive de-escalatory or redirection techniques;

(C) could not reasonably have been anticipated; and

(D) is not addressed in the resident's service plan.

(5) In the event of a behavioral emergency, the facility must use only an acceptable restraint hold. An acceptable restraint hold is a hold in which the resident's limbs are held close to the body to limit or prevent movement and that does not violate the provisions of paragraph (6) of this subsection. A restraint hold must be used for the shortest period of time necessary to ensure the protection of the resident and others.

(6) A restraint must not be administered under any circumstance if it:

(A) obstructs the resident's airway, including a procedure that places anything in, on, or over the resident's mouth or nose;

(B) impairs the resident's breathing by putting pressure on the resident's torso;

(C) interferes with the resident's ability to communicate; or

(D) places the resident in a prone or supine position.

(7) After the use of restraint, the facility must:

(A) with the resident's or the resident's legally authorized representative's consent, make an appointment with the resident's physician no later than the end of the first working day after the use of restraint and document in the resident's record that the appointment was made; or

(B) if the resident refuses to see the physician, document the refusal in the resident's record.

(8) As soon as possible but no later than 24 hours after the use of restraint, the facility must notify the following persons, as applicable, that the resident has been restrained:

(A) the resident's legally authorized representative; or

(B) an individual actively involved in the resident's care, unless the release of this information would violate other law.

(9) Under the Health Insurance Portability and Accountability Act, if the facility is a "covered entity" as defined in 45 CFR §160.103, any notification provided under paragraph (8) of this paragraph must be to a person to whom the facility is allowed to release information under 45 CFR §164.510.

(10) In order to decrease the frequency of the use of restraint, facility staff must be aware of and adhere to the findings of the resident evaluation required for each resident in §553.259(b) of this subchapter (relating to Admission Policies and Procedures).

(11) A facility may adopt policies that allow less use of restraint than allowed by the rules of this chapter.

(12) A facility may not discharge or otherwise retaliate against:

(A) an employee, resident, or other person because the employee, resident, or other person files a complaint, presents a grievance, or otherwise provides in good faith information relating to the misuse of restraint or seclusion at the facility; or

(B) a resident because someone on behalf of the resident files a complaint, presents a grievance, or otherwise provides in good faith information relating to the misuse of restraint or seclusion at the facility.

(b) Bed rails.

(1) A facility must not use bed rails for purposes of restraint.

(2) A facility must not use full bed rails. Grab bars, quarter rails, and half rails may be used if they do not hinder the resident's ability to enter or exit the bed.

(3) A facility must not use bed rails for residents who exhibit wandering behaviors, present a risk for elopement, or have a cognitive impairment that would increase the risk of injury with the use of bed rails.

(4) A facility must document discussion with the resident, legally authorized representative, or interested party, as appropriate, on the use of possible alternatives to bed rails, such as low beds and floor mats, prior to installing a bed rail.

(5) A facility must review the risks and benefits of bed rails with the resident or resident's legally authorized representative, as appropriate, and obtain signed

informed consent prior to installation.

(6) A facility that allows the use of bed rails for resident safety or resident convenience must evaluate:

(A) the resident's ability to utilize the bed rail for convenience, such as getting in and out of the bed safely, risk of entrapment, and ability to maneuver around the bed rail;

(B) mattress size and fit to ensure no gapping exists between the bed rail that could cause a resident's head or limbs to become caught;

(C) the bed's dimensions to ensure they are appropriate for the resident's size and weight; and

(D) the manufacturer's recommendations and specifications for installing and maintaining the bed rails.

(7) The facility must review and document the installation, use, and maintenance of bed rails at least every 30 days.

(c) Self-release seat belts.

(1) For the purposes of this subsection, a "self-release seat belt" is a seat belt on a resident's wheelchair that the resident can demonstrate the ability to fasten and release without assistance. A self-release seat belt is not a restraint.

(2) Except as provided in paragraph (3) of this subsection, a facility must allow a resident to use a self-release seat belt if:

(A) the resident or the resident's legally authorized representative requests that the resident use a self-release seat belt;

(B) the resident consistently demonstrates the ability to fasten and release the self-release seat belt without assistance;

(C) the use of the self-release seat belt is documented in and complies with the resident's individual service plan; and

(D) the facility receives written authorization, signed by the resident or the resident's legally authorized representative, as applicable, for the resident to use the self-release seat belt.

(3) A facility that advertises as a restraint-free facility is not required to allow a resident to use a self-release seat belt if the facility:

(A) provides a written statement to all residents that the facility is restraint-free and is not required to allow a resident to use a self-release seat belt; and

(B) makes reasonable efforts to accommodate the concerns of a resident who requests a self-release seat belt in accordance with paragraph (2) of this subsection.

(4) A facility is not required to continue to allow a resident to use a self-release seat belt in accordance with paragraph (2) of this subsection if:

(A) the resident cannot consistently demonstrate the ability to fasten and release the seat belt without assistance;

(B) the use of the self-release seat belt does not comply with the resident's individual service plan; or

(C) the resident or the resident's legal guardian revokes in writing the authorization for the resident to use the self-release seat belt.

§553.281. Health Maintenance Activities.

(a) A facility may allow an attendant to perform a health maintenance activity (HMA) for a resident if:

(1) the activity is performed for a resident with a functional disability as defined in §553.3 of this chapter (relating to Definitions); and

(2) an RN acting on behalf of the facility has conducted and documented an assessment of the resident's health status and all other relevant factors in accordance with Texas Administrative Code, Title 22 §225.6 (relating to RN Assessment of the Client) and 22 TAC §225.8(a)(2) (relating to Health Maintenance Activities Not Requiring Delegation).

(3) The facility must ensure that:

(A) the resident, the resident's legally authorized representative, or other adult chosen by the resident, as applicable, is able and agrees in writing to direct an attendant to perform the task without RN supervision;

(B) the activity addresses a condition that is stable and predictable, as defined in §553.3 of this chapter; and

(C) the activity is performed for a resident who could perform the task on his or her own but for a functional disability that prevents it.

(b) The RN must reassess a resident's status any time there is a change in the resident's condition that may affect his or her physical or cognitive abilities, or the stability or predictability of the resident's condition and, at a minimum:

(A) at least once annually; or

(B) at least once every six months if the resident has been diagnosed with Alzheimer's disease or a related disorder or resides in an Alzheimer's certified facility or unit.

§553.283. RN Delegation of Care Tasks.

If the RN determines under §553.281 of this subchapter (relating to Health Maintenance Activities) that an activity does not qualify as a health maintenance

activity, an attendant may perform that activity for the resident if:

(1) the RN has determined in accordance with Texas Administrative Code (TAC), Title 22, Chapter 225 (relating to RN Delegation to Personnel and Tasks Not Requiring Delegation in Independent Living Environments for Clients with Stable and Predictable Conditions) that:

(A) the activity can be delegated to an attendant; and

(B) the activity is allowable in an assisted living facility in accordance with §553.7 of this chapter (relating to Assisted Living Facility Services); and

(2) the RN has properly delegated the task to an attendant in accordance with 22 TAC Chapter 225.

§553.285. Resident Records and Retention.

(a) Resident records.

(1) Records that pertain to a resident must be treated as confidential and properly safeguarded from unauthorized use, loss, and destruction. A resident record is any record pertaining to the resident by name or other unique identifier.

(2) Resident records must be retained for five years after services end.

(3) Resident records must contain:

(A) information contained in the facility's standard and customary admission form;

(B) a record of the resident's evaluations, any RN assessments related to health maintenance activities or RN delegated tasks, and counseling related to self-administration of medication;

(C) the resident's service plan;

(D) physician's orders, if any;

(E) advance directives, if any;

(F) medication administration records, if the facility provides medication administration or supervision to the resident;

(G) documentation of a health examination by a physician performed within 30 days before admission or 14 days after admission, unless:

(i) a transferring facility has a physical examination in the medical record;
or

(ii) the resident is a Christian Scientist;

(H) documentation of services provided by health care professionals applicable to the resident's medical needs; and

(I) a copy of the most recent court order appointing a guardian of a resident or a resident's estate and letters of guardianship that the facility received in response to the request made in accordance with subsection (c) of this section.

(b) Resident charges and finances.

(1) The facility must keep a financial record on all charges billed to the resident for care and these records must be available to HHSC. A financial record must be made available to a resident upon request.

(A) If a resident entrusts the handling of any personal finances to the facility, the facility must maintain a financial record to document accountability for receipts and expenditures, and these records must be available to HHSC.

(B) Receipts for payments from a resident or on behalf of a resident must be made available within two working days of the date requested.

(2) A facility must give residents 30 days' written notice before implementing a price increase for anything for which residents are charged.

(c) Guardianship record requirements.

(1) A facility must request, from a resident's legally authorized representative or responsible party, a copy of:

(A) the current court order appointing a guardian for the resident or the resident's estate; and

(B) current letters of guardianship for the resident.

(2) A facility must request the court order and letters of guardianship when the facility:

(A) admits an individual; and

(B) becomes aware a guardian is appointed after the facility admits a resident.

(3) A facility must request an updated copy of the court order and letters of guardianship at each annual evaluation and retain documentation of any change.

(4) A facility must make at least one follow-up request within 30 days after the facility makes a request in accordance with paragraphs (2) or (3) of this subsection if the facility has not received:

(A) a copy of the court order and letters of guardianship; or

(B) a response that there is no court order or letters of guardianship.

(5) A facility must keep in the resident's record:

(A) documentation of the results of the request for the court order and letters of guardianship; and

(B) a copy of the court order and letters of guardianship.

(d) Release of resident records.

(1) A resident's records must be available to the resident, the resident's legally authorized representative, and HHSC staff.

(2) A resident's records must only be released with the resident's written consent, except:

(A) to another provider, if the resident transfers residency;

(B) if the release is required by law; and

(C) to HHSC staff during surveys.

(3) The facility must provide a resident or, if applicable, the resident's legally authorized representative with a hard or electronic copy of all or any portion of the resident's records within two working days of the date of written or spoken request.

(e) Destruction of Records.

(1) When resident records are destroyed after the retention period, the facility must shred or incinerate the records in a manner that protects confidentiality.

(2) At the time of destruction, the facility must document in a log the following for each record destroyed:

(A) resident name;

(B) resident record number, if used;

(C) the resident's Social Security number and date of birth, if available; and

(D) date and signature of the person carrying out destruction.

§553.287. Rights.

(a) Residents' rights.

(1) A facility must ensure that the facility's policies and procedures:

(A) enable residents to exercise their rights;

(B) promote the highest practicable quality of life for all residents and do not deliberately or inadvertently prohibit a resident from exercising the rights stated in this section or by the rights of citizenship; and

(C) ensure that a resident, in exercising his or her rights, does not impede the rights of others in the facility.

(2) A facility must ensure the Residents' Bill of Rights is:

(A) provided in writing to each resident or resident's legally authorized

representative; and

(B) posted in English and Spanish in a prominent place in the facility accessible by residents and visitors.

(3) A resident has all the rights, benefits, responsibilities, and privileges stated in the Constitution and laws of this state and the United States, except where lawfully restricted.

(4) A resident has the right to be free of interference, coercion, discrimination, and reprisal in exercising these civil rights.

(5) A resident has the right to be free from physical and mental abuse, including corporal punishment, physical restraints and seclusion, and chemical restraints that are administered for the purpose of discipline or convenience and not required to treat the resident's medical symptoms.

(6) A resident has the right to participate in activities of social, religious, and community groups unless the participation interferes with the rights of others.

(7) A resident has the right to practice the religion of the resident's choice or abstain from religious activities.

(8) A resident with an intellectual disability and who is represented by a court-appointed guardian may participate in a behavior modification program that involves the use of restraints, in accordance with §553.279(a) of this subchapter (relating to Restraints and Seclusion), or adverse stimuli only with the informed consent of the guardian.

(9) A resident has the right to be treated with respect, courtesy, consideration, and recognition of his or her dignity and individuality, without regard to race, religion, national origin, sex, age, disability, marital status, or source of payment. This means that the resident has the right to:

(A) make individualized choices regarding personal affairs, care, benefits, schedules and activities, and services;

(B) be free from abuse, neglect, and exploitation;

(C) if protective measures are required and the resident has not been adjudicated cognitively impaired, designate a guardian or legally authorized representative to ensure the right to quality stewardship of the resident's affairs; and

(D) protection of the resident's personal image. A facility employee must not share or post to the internet or social media any photographs or video of a resident without the resident's or the resident's legally authorized representative's written consent.

(10) A resident has the right to a safe, clean, and decent living environment that:

- (A) provides adequate personal space and privacy;
- (B) is free of pests;
- (C) is free of electrical and structural hazards;
- (D) has clean bathrooms, kitchen, and bedrooms; and
- (E) has clean linens and towels.

(11) A resident has the right to communicate with staff and others in the resident's native language for the purpose of acquiring or providing any type of treatment, care, or services.

(12) A resident has the right to make a complaint about the resident's care or treatment.

(A) A resident's complaint may be made anonymously or communicated by a person designated by the resident.

(B) The facility must promptly respond to resolve each resident complaint.

(C) The facility must not discriminate or take other punitive action against a resident who makes a complaint.

(D) The facility must not impede a resident's right to make a formal complaint to HHSC or require that complaints be made to the facility prior to lodging a formal complaint with HHSC.

(E) The facility must not impede resident access to the State Ombudsman, a certified ombudsman, or an ombudsman intern or require that complaints be made to the facility prior to making a complaint to the Ombudsman Program but may inform the resident of the role of the Ombudsman Program to help resolve complaints.

(13) A resident has the right to receive and send unopened mail. If mail is not directly delivered to residents by a postal worker, the facility must ensure that the resident's:

(A) outgoing mail is posted via the carrier of the resident's choice; and

(B) incoming mail and packages are delivered to the resident within 24 hours of delivery at the facility.

(14) A resident has the right to unrestricted direct, unaccompanied communication in person and via telecommunications, including personal visitation with any person of the resident's choice, including family members, outside resources, and representatives of advocacy groups and community service organizations, at any reasonable hour or in case of emergency or personal crisis, at no monetary cost to the resident or visitor.

(A) A resident has the right to retain a personal cellular or Internet device,

such as a cellphone, computer, and tablet.

(B) The facility must ensure a resident is given:

(i) personal privacy while attending to personal needs; and

(ii) a private place for receiving visitors or associating with other residents via communication devices or in person.

(C) The facility must ensure a resident's right to privacy includes any medical treatment, written communications, telephone conversations, meeting with visitors, and access to resident councils.

(15) A resident has the right to make unimpeded contacts and cultivate relationships with individual community members and social groups to achieve the highest level of independence, autonomy, and interaction with the community of which the resident is capable.

(16) A resident has the right to manage his or her own financial affairs.

(A) The resident may authorize in writing another person to manage his or her money.

(B) The resident may choose the way his or her money is managed, including a money management program, a representative payee program, a financial power of attorney, a trust, or a similar method, and the resident may choose the least restrictive of these methods.

(C) The resident must be given, upon request of the resident or the resident's legally authorized representative, but at least quarterly, an accounting of financial transactions made on his or her behalf by the facility should the facility accept the resident's written delegation of this responsibility to the facility in conformance with state law.

(17) A resident has the right to review and obtain copies of the resident's records in accordance with §553.285 of this subchapter (relating to Resident Records and Retention).

(18) A resident has the right to choose and retain:

(A) an attending physician and other medical and health care practitioners; and

(B) at least one essential caregiver, in accordance with Chapter 570 of this title (relating to Long-term Care Provider Rules During a Public Health Emergency or Disaster).

(19) A resident has the right to be fully informed in advance about treatment, care, and services provided by the facility.

(20) A resident has the right to participate in developing his or her individual service plan that describes the resident's medical, nursing, and psychological needs

and how the needs will be met.

(21) A resident has the right to refuse medical treatment or services. The facility must ensure the resident is advised by the person providing treatment or services of the possible consequences of refusing treatment or services.

(22) A resident has the right to request a shared room with a spouse or other consenting individual who resides in the facility.

(23) A resident has the right to retain and use personal possessions, including clothing and furnishings, as space permits and with consideration of the health and safety of other residents.

(24) A resident has the right to determine his or her dress, hair style, and other personal effects according to individual preference.

(25) A resident has the right to retain and use personal property and belongings, such as photographs, mementos, and memorabilia, and food and snacks in properly sealed and resealable containers.

(26) A resident has the right to refuse to perform services for the facility, except as contracted for by the resident and manager.

(27) A resident has the right to be informed by the facility, no later than the 30th day after admission:

(A) whether the resident is entitled to benefits under Medicare or Medicaid related to the services provided by the facility; and

(B) which items and services may be covered by these benefits, including items or services for which the resident may not be charged.

(28) A resident has the right to not be transferred or discharged without notice or due process in accordance with §553.263 of this subchapter (relating to Resident Transfer and Discharge).

(29) A resident has the right to have access to the State Ombudsman and a certified ombudsman.

(30) A resident has the right to execute an advance directive, under Texas Health and Safety Code, Chapter 166, or designate an agent in advance of need to make decisions regarding the resident's health care should the resident become incapacitated.

(b) Provider rights.

(1) A facility must post a Providers' Bill of Rights in a prominent place in the facility in both English and Spanish.

(2) A provider of assisted living services has the right to:

(A) be shown consideration and respect that recognizes the dignity and

individuality of the provider and the facility;

(B) terminate a resident's contract for just cause after a written 30-day notice or immediately in accordance with §553.263 of this subchapter (relating to Resident Transfer and Discharge);

(C) present grievances, file complaints, or provide information to state agencies or other persons without threat of reprisal or retaliation;

(D) refuse to perform services for the resident or the resident's family other than those contracted for by the resident and the provider;

(E) contract with members of the local community in order to achieve the highest level of independence, autonomy, interaction, and services to residents;

(F) access information and medical records concerning a resident referred to the facility, which must remain confidential as provided by law;

(G) refuse a person referred to the facility if the referral is inappropriate;

(H) maintain an environment free of illegal drugs and weapons per Texas Penal Code §§30.05 – 30.07, which allows a facility to ban firearms in the facility by giving proper notice by way of a sign at all entrances; and

(I) be made aware of a resident's problems, including self-abuse, violent behavior, alcoholism, or drug abuse.

(c) Resident and family councils.

(1) A facility must have a policy that allows residents and families to form and participate in resident and family council meetings and activities.

(2) A facility must not prohibit residents from attending resident and family council meetings.

(3) A facility must assist a resident to attend a family council meeting in the facility if requested by the resident.

(4) A facility must not use resident or family council meetings and activities in place of facility activities required in §553.273 of this subchapter (relating to Activities Program).

(d) HHSC and local authority access to residents. A facility must allow an employee of HHSC, or an employee of a local authority, into the facility as necessary to provide services to a resident:

(1) during the provision of emergency and medical services; and

(2) during a facility survey, inspection or investigation, or enforcement action.

(e) Authorized electronic monitoring (AEM).

(1) A facility must permit a resident, or the resident's guardian or legally

authorized representative, to monitor the resident's room using an electronic monitoring device.

(2) A facility may not refuse to admit an individual and may not discharge a resident because of a request to conduct authorized electronic monitoring.

(3) The HHSC Information Regarding an Authorized Electronic Monitoring form must be signed by or on behalf of all new residents upon admission. The form must be completed and signed by or on behalf of all current residents. A copy of the form must be maintained in the active portion of a resident's record.

Figure: 26 TAC §553.287(e)(3)

(4) A resident, or the resident's guardian or legally authorized representative, who wishes to conduct AEM must request AEM by giving a completed, signed, and dated HHSC Request for Authorized Electronic Monitoring form to the manager or designee. A copy of the form must be maintained in the resident's record.

(A) If a resident has the capacity to request AEM and has not been judicially declared to lack the required capacity, only the resident may request AEM, notwithstanding the terms of any durable power of attorney or similar instrument.

(B) If a resident has been judicially declared to lack the capacity required to request AEM, only the guardian of the resident may request AEM.

(C) If a resident does not have the capacity to request AEM but has not been judicially declared to lack the required capacity, only the legally authorized representative of the resident may request AEM.

(i) A resident's practitioner makes the determination regarding the resident's capacity to request AEM. Documentation of the determination must be in the resident's record.

(ii) When a resident's practitioner determines the resident lacks the capacity to request AEM, a person from the following list, in order of priority, may act as the resident's legally authorized representative for the limited purpose of requesting AEM:

(I) a person named in the resident's medical power of attorney or other advance directive;

(II) the resident's spouse;

(III) an adult child of the resident who has the waiver and consent of all other qualified adult children of the resident to act as the sole decision-maker;

(IV) a majority of the resident's reasonably available adult children;

(V) the resident's parents; or

(VI) the individual clearly identified to act for the resident by the resident before the resident became incapacitated or the resident's nearest living relative.

(5) A resident, or the resident's guardian or legally authorized representative, who wishes to conduct AEM must also obtain the consent of any other residents residing in the room using the HHSC Consent to Authorized Electronic Monitoring form. When complete, the form must be given to the manager or designee. A copy of the form must be maintained in the active portion of the resident's record. AEM cannot be conducted without the consent of all residents residing in the room.

(A) Consent to AEM may be given only by:

(i) the other resident or residents in the room;

(ii) the guardian of the other resident, if the resident has been judicially declared to lack the required capacity; or

(iii) the legally authorized representative of the other resident, determined by following the same procedure established under paragraph (4)(C) of this subsection.

(B) Another resident residing in the room may condition consent on:

(i) pointing the camera away from the consenting resident's bed and personal space, when the proposed electronic monitoring is a video surveillance camera; and

(ii) limiting or prohibiting the use of an electronic monitoring device.

(C) AEM must be conducted in accordance with any limitation placed on the monitoring as a condition of the consent given by or on behalf of another resident residing in the room. The resident's roommate, or the roommate's guardian or legally authorized representative, assumes responsibility for ensuring AEM is conducted according to the designated limitations.

(D) If AEM is being conducted in a resident's room, and another resident is moved into the room who has not yet consented to AEM, the monitoring must cease until the new resident, or the resident's guardian or legally authorized representative, consents.

(6) When the completed HHSC Request for Authorized Electronic Monitoring form and the HHSC Consent to Authorized Electronic Monitoring form, if applicable, have been given to the manager or designee, AEM may begin.

(A) Anyone conducting AEM must post and maintain a conspicuous notice at the entrance to the resident's room. The notice must state that the room is being monitored by an electronic monitoring device.

(B) The resident, or the resident's guardian or legally authorized representative, must pay for all costs associated with conducting AEM, including installation in compliance with life safety and electrical codes, maintenance, removal of the equipment, posting and removal of the notice, or repair following removal of the equipment and notice, other than the cost of electricity.

(C) The facility must meet residents' requests to have a video camera obstructed to protect their dignity.

(D) The facility must make reasonable physical accommodation for AEM, which includes providing:

(i) a reasonably secure place to mount the video surveillance camera or other electronic monitoring device; and

(ii) access to power sources for the video surveillance camera or other electronic monitoring device.

(7) A facility must, regardless of whether AEM is being conducted, post an 8 1/2-inch by 11-inch notice at the main facility entrance. The notice must be entitled "Electronic Monitoring" and must state, in large, easy-to-read type, "The rooms of some residents may be monitored electronically by or on behalf of the residents. Monitoring may not be open and obvious in all cases."

(8) A facility may:

(A) require an electronic monitoring device to be installed in a manner that is safe for residents, employees, or visitors who may be moving about the room, and meet all local and state regulations;

(B) require AEM to be conducted in plain view; and

(C) place a resident in a different room to accommodate a request for AEM.

(9) A facility may not discharge a resident because covert electronic monitoring is being conducted by or on behalf of a resident. If a facility discovers a covert electronic monitoring device and it is no longer covert as defined in §553.3 of this chapter (relating to Definitions), the resident must meet all the requirements for AEM before monitoring is allowed to continue.

(10) All instances of abuse or neglect must be reported to HHSC, as required by §553.293 of this subchapter (relating to Abuse, Neglect, or Exploitation and Incidents Reportable to HHSC by Facilities). For purposes of the duty to report abuse or neglect, the following apply.

(A) A person who is conducting electronic monitoring on behalf of a resident is considered to have viewed or listened to a recording made by the electronic monitoring device on or before the 14th day after the date the recording is made.

(B) If a resident who has capacity to determine that the resident has been abused or neglected and who is conducting electronic monitoring gives a recording made by the electronic monitoring device to a person and directs the person to view or listen to the recording to determine whether abuse or neglect has occurred, the person to whom the resident gives the recording is considered to have viewed or listened to the recording on or before the seventh day after the date the person receives the recording.

(C) A person is required to report abuse based on the person's viewing of or listening to a recording only if the incident of abuse is acquired on the recording. A person is required to report neglect based on the person's viewing of or listening to a recording only if it is clear from viewing or listening to the recording that neglect has occurred.

(D) If abuse or neglect of the resident is reported to the facility and the facility requests a copy of any relevant recording made by an electronic monitoring device, the person who possesses the recording must provide the facility with a copy at the facility's expense. The cost of the copy must not exceed the community standard. If the contents of the recording are transferred from the original technological format, a qualified professional must do the transfer.

(E) A person who sends more than one recording to HHSC must identify each recording on which the person believes an incident of abuse or evidence of neglect may be found. Tapes or recordings should identify the place on the recording that an incident of abuse or evidence of neglect may be found.

§553.289. Access to Residents and Records by the State Long-Term Care Ombudsman Program.

(a) A resident has the right to be visited by the State Ombudsman, a certified ombudsman, or an ombudsman intern.

(b) In accordance with 42 United States Code (U.S. Code) §3058g (b)(1)(A) and 45 CFR §1324.11(e)(2), a facility must allow:

(1) the State Ombudsman, a certified ombudsman, and an ombudsman intern to have:

(A) immediate, private, and unimpeded access to enter the facility at any time during the facility's regular business hours or regular visiting hours;

(B) immediate, private, and unimpeded access to a resident; and

(C) immediate and unimpeded access to the name and contact information of the resident's legally authorized representative, if the State Ombudsman, a certified ombudsman, or an ombudsman intern determines the information is needed to perform a function of the Ombudsman Program; and

(2) the State Ombudsman and a certified ombudsman to have immediate, private, and unimpeded access to enter the facility at a time other than regular business hours or visiting hours, if the State Ombudsman or a certified ombudsman determines access may be required by the circumstances to be investigated.

(c) A facility, in accordance with 42 U.S. Code §3058g (b)(1)(B) and 45 CFR §1324.11(e)(2), must allow the State Ombudsman and a certified ombudsman to have immediate access to:

(1) all files, records, and other information concerning a resident, including an incident report involving the resident, if:

(A) the State Ombudsman or certified ombudsman has the consent of the resident or legally authorized representative;

(B) the resident is unable to communicate consent to access and has no legally authorized representative; or

(C) such access is necessary to investigate a complaint and the following occurs:

(i) the resident's legally authorized representative refuses to give consent to access to the records, files, and other information;

(ii) the State Ombudsman or certified ombudsman has reasonable cause to believe that the legally authorized representative is not acting in the best interests of the resident; and

(iii) if it is the certified ombudsman seeking access to the records, files, or other information, the certified ombudsman obtains the approval of the State Ombudsman to access the records, files, or other information without the legally authorized representative's consent; and

(2) the administrative records, policies, and documents of the facility to which the residents or general public have access.

(d) The rules adopted under the Health Insurance Portability and Accountability Act of 1996, 45 CFR part 164, subparts A and E, do not preclude a facility from releasing protected health information or other identifying information regarding a resident to the State Ombudsman or a certified ombudsman if the requirements of subsections (b)(1)(C) and (c)(1) of this section are otherwise met. The State Ombudsman and a certified ombudsman are each a "health oversight agency" as that phrase is defined in 45 CFR §164.501.

§553.291. Postings.

(a) A facility must prominently and conspicuously post for display in a public area of the facility that is readily available to residents, employees, and visitors:

(1) the license issued under this chapter;

(2) an Alzheimer's certificate if the facility is Alzheimer's certified or has an Alzheimer's certified unit;

(3) a sign prescribed by HHSC that specifies complaint procedures established under these rules and specifies how complaints may be filed with HHSC;

(4) a notice in the form prescribed by HHSC stating that inspection and related reports are available at the facility for public inspection and providing HHSC toll-free telephone number that may be used to obtain information concerning the facility;

(5) a copy of the most recent inspection report relating to the facility;

(6) Residents' Bill of Rights;

(7) Providers' Bill of Rights;

(8) the facility's emergency evacuation floor plan, unless the facility is a one-story facility licensed for fewer than 17 residents;

 (9) the menu for resident daily meals and snacks for the current week;

(10) the resident daily activities schedule for the current month;

(11) the telephone number of the managing local ombudsman and the toll-free number of the Ombudsman Program, 1-800-252-2412;

(12) the facility's 24-hour staffing pattern for the current month; and

(13) a sign stating: "Cases of Suspected Abuse, Neglect, or Exploitation must be reported to HHSC by calling 1-800-458-9858."

 (b) A facility must post emergency telephone numbers, including for fire, police, emergency medical services, and poison control center services, conspicuously at or near facility maintained telephones.

(c) A facility must, regardless of whether authorized electronic monitoring is being conducted, post an 8 1/2-inch by 11-inch notice at the main facility entrance. The notice must be entitled "Electronic Monitoring" and must state, in large, easy-to-read type, "The rooms of some residents may be monitored electronically by or on behalf of the residents. Monitoring may not be open and obvious in all cases."

(d) Whenever a resident room is being electronically monitored, the facility must post and maintain a conspicuous notice at the entrance to the resident's room, stating that an electronic monitoring device is monitoring the room.

§553.292. Advertisements, Solicitations, and Promotional Material.

A facility must use its state-issued facility identification number in all advertisements, solicitations, and promotional materials, including the facility's website, social media accounts, yellow pages, brochures, and business cards.

§553.293. Abuse, Neglect, or Exploitation and Incidents Reportable to HHSC by Facilities.

(a) An employee of the facility who has cause to believe that the physical or mental health or welfare of a resident has been or may be adversely affected by abuse, neglect, or exploitation or that the resident has died due to abuse or neglect, exploitation, or an unknown reason, must report the abuse, neglect, or exploitation to:

(1) HHSC Consumer Rights and Services section at 1-800-458-9858, via the online portal, or via the HHSC website; and

(2) the applicable law enforcement agency described in this paragraph:

(A) a municipal law enforcement agency, if the facility is located within the territorial boundaries of a municipality; or

(B) the sheriff's department of the county in which the facility is located if the facility is not located within the territorial boundaries of a municipality.

(b) A facility must develop and implement policies regarding abuse, neglect, and exploitation and incidents that facilities must report to HHSC such as a missing resident, drug diversion, or the injury or death of a resident from an unknown source. Such policies must address the following:

(1) prevention of abuse, neglect, and exploitation including the prevention of additional abuse, neglect, and exploitation during an active investigation;

(2) identification of abuse, neglect, exploitation, or reportable incident in accordance with this subsection;

(3) reporting of abuse, neglect, exploitation, or incident, as described in this subsection, including timeframes for reporting internally and to HHSC, the Texas Department of Family and Protective Services, or law enforcement;

(4) notifications to applicable individuals, such as a resident's legally authorized representative, regarding the initiation and conclusion of an investigation for abuse, neglect, exploitation, or reportable incident; and

(5) investigation procedures, required documentation, and internal reporting chain of command.

(c) The following information must be reported to HHSC:

(1) name, age, and address of the resident;

(2) name and address of the person responsible for the care of the resident, if available;

(3) nature and extent of the elderly or disabled person's condition;

(4) basis of the reporter's knowledge; and

(5) any other relevant information.

(d) A facility must immediately, no later than 24 hours upon learning of an incident or receiving a complaint, make an oral report to HHSC or electronic report via the online portal of:

(1) alleged abuse, neglect, or exploitation;

(2) a missing resident;

(3) drug diversion;

(4) fire;

(5) a resident's injury or death from an unknown source; or

(6) a resident's credible verbal threats or physical actions that pose a serious or immediate threat to the health, safety, or welfare of staff or other residents.

(e) A facility must thoroughly investigate an incident, as described in subsection (d) of this section, by collecting evidence such as interviews and documents to allow the individual assigned to oversee investigations to determine what actions are necessary for the protection of residents.

(f) A facility must submit a report of the investigation on Form 3613A, SNF, NF, ICF/IID, ALF, DAHS including ISS providers and PPECC Provider Investigation Report with Cover Sheet, to HHSC state office no later than the fifth calendar day after the oral report.

(g) A facility must prevent further potential abuse, neglect, exploitation, or mistreatment of residents while an investigation is in progress, which may include immediate suspension of any alleged perpetrators employed by the facility.

(h) A facility must not retaliate against a person for filing a complaint, presenting a grievance, or providing in good faith information relating to personal care services provided by the facility.

(i) A facility must require staff, as a condition of employment with the facility, to sign a statement indicating that the employee may be criminally liable for a failure to report abuse, neglect, exploitation, or reportable incident, in accordance with this section.

§553.295. Emergency Preparedness and Response.

(a) 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 whom a resident, or a resident's legally authorized representative, identifies in writing for the facility to contact in the event of a disaster or emergency.

(2) Disaster or emergency--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 disaster or emergency, 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 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 a disaster or emergency.

(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 or title, 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 a disaster or emergency 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 facility actions affecting residents during a disaster or emergency, including an impending or actual evacuation, and for maintaining ongoing communication with them for the duration of the disaster, emergency, 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 the 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 to evacuate some or all of the facility's residents, on a temporary basis, due to a

disaster or emergency 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 emergencies that pose the highest risk to the facility, and assessing 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 emergencies or disasters relevant to the facility's operations and location, 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 cyberattack; 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 that is adequate to protect facility residents and staff in a disaster or emergency.

(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) A facility must prepare for a disaster or emergency based on its plan and follow each plan procedure and requirement, including contingency procedures, at the time it is called for in the event of a disaster or emergency. 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 to communicate with the EMC, both as a preparedness measure and in anticipation of and during a developing and occurring disaster or emergency; and

(C) include the location of a current list of the facility's resident population, which must be maintained as required under 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 §553.261 of this subchapter (relating to Inappropriate Placement in a Type A or Type B Facility); 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 notify the EMC of the facility's emergency preparedness and response plan, take actions to coordinate its planning and emergency response with the EMC, and document communications with the EMC regarding plan coordination.

(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 residents' legally authorized representatives at all times;

(2) at least annually and after an event described in subparagraphs (A) - (D) of this paragraph, review the plan, its evacuation summary, if any, and the contact lists described in subsection (g)(3) of this section, and update each:

(A) to reflect changes in information, including when an evacuation waiver is approved under §553.261 of this subchapter;

(B) within 30 days or as soon as practicable following:

(i) a disaster or emergency if a shortcoming identified in the plan during the facility's response;

(ii) a drill if, based on the drill, a shortcoming in the plan is identified; and

(iii) a change in a facility policy or HHSC rule that would impact the plan;

(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 residents and the residents' legally authorized representatives 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) of this section to a resident or legally authorized representative who requests that information;

(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 a disaster or emergency. In doing so, the facility is not required to identify or register individual residents for evacuation assistance.

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

(1) designates the EPC, as defined in (a)(4) of this section, and 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

(2) 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 a disaster or emergency.

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

(1) applicable procedures, methods, and responsibility for the facility to communicate with the EMC and other outside organizations, based on facility

coordination with them, to notify the EPC or alternate EPC, as applicable, of a disaster or emergency;

(2) who, including during off hours, weekends, and holidays, the EPC or alternate EPC, as applicable, will notify of a disaster or emergency, and the methods and procedures for notification;

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

(4) procedures for monitoring local news and weather reports regarding a disaster or potential disaster or emergency, 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.

(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 and the facility's supplemental or alternate mode of communication, and procedures for communication if telecommunication is affected by a disaster or emergency;

(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, 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 defined in subsection (a)(7) 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;

(D) personal contact information for facility staff; and

(E) the facility's resident population, which must identify 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; 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, including an impending or actual evacuation, and for maintaining ongoing communication for the duration of the emergency 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 used, if there is an impending or actual evacuation;

(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, 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, in areas used by residents during a disaster or emergency, power and ambient temperatures that are safe under the circumstances, but which may not be less than 68 degrees Fahrenheit or more than 82 degrees Fahrenheit; and

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

(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, decides to remain in the facility during a disaster or emergency.

(i) Core Function Five: Evacuation.

(1) A facility has the discretion to determine when an evacuation is necessary for the health and safety of residents and staff. However, a facility must evacuate if the county judge of the county in which the facility is located or the mayor of the municipality in which the facility is located mandates it by an evacuation order issued independently or concurrently with 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 pets or service animals that reside in the facility;

(C) describes the process for the facility to notify each applicable receiving facility or pre-arranged destination of the facility's plan to evacuate and to verify with the applicable destination that it is available, ready, and not legally restricted at the time from receiving the evacuated residents, and can do so safely;

(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, or as soon as feasible thereafter, if it is not safe to do so at the time of decision;

(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 and 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 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:

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

(B) facility staff designated during an evacuation to drive a vehicle owned, leased, or rented by the facility;

(C) notification procedures to ensure designated staff's availability at the time of an evacuation; and

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

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

(3) includes procedures for the safe and secure transport of, and staff's timely access to, the following resident items needed during an evacuation: 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 each resident, notwithstanding an emergency, to continue to receive from the appropriate provider the services identified under paragraph (1) of this subsection; and

(3) identifies procedures for the facility to notify home and community support services agencies and independent health care professionals that deliver services to residents in the facility of an evacuation in accordance with 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;

(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 ensures 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; and

(4) describes procedures and safeguards to protect the confidentiality, security, and integrity of resident records throughout an emergency 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 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 percent 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 while continuing to meet the needs of its own residents, and of 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; and

(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 practitioner's orders for care;

(B) medications;

(C) a service plan;

(D) existing advance directives; and

(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.

(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) prior to the staff member assuming job responsibilities; and

(B) when 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 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 and document, for each, the provision or refusal of such training[7] to each resident or 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 relating to a disaster or emergency.

(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 an extended fire; and

(B) by submitting a completed HHSC Form 3707, Fire Report for Long Term Care Facilities within 15 calendar days after the fire.

(2) A facility must report to HHSC a death or serious injury of a resident, or threat to resident health or safety, resulting from an emergency or disaster 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 and resulting resident injury, death, or threat, and submitting a completed HHSC Form 3613-A, 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 paragraph (2)(A) of this subsection.

(p) Emergency Response System.

(1) The facility manager and designee must enroll in an emergency communication system in accordance with instructions from HHSC.

(2) A facility must respond to requests for information received through the emergency communication system in the format established by HHSC.

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 553 LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES
SUBCHAPTER E STANDARDS FOR LICENSURE

~~[§553.261. Coordination of Care.~~

~~(a) Medications.~~

~~—(1) Administration. Medications must be administered according to physician's orders.~~

~~——(A) Residents who choose not to or cannot self-administer their medications must have their medications administered by a person who:~~

~~————(i) holds a current license under state law that authorizes the licensee to administer medication;~~

~~————(ii) holds a current medication aide permit and who:~~

~~————(I) acts under the authority of a person who holds a current nursing license under state law that authorizes the licensee to administer medication; and~~

~~————(II) functions under the direct supervision of a licensed nurse on duty or on call by the facility; or~~

~~————(iii) is an employee of the facility to whom medication administration has been delegated by a registered nurse, who has trained the employee to administer medications or verified their training. The delegation of the medication administration is governed by 22 TAC Chapter 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.~~

~~——(B) Each resident's prescribed medication must be dispensed through a pharmacy or by the resident's treating physician or dentist.~~

~~——(C) Physician sample medications may be given to a resident by the facility provided the medication has specific dosage instructions for the individual resident.~~

~~——(D) Each resident's medications must be listed on the individual resident's medication profile record. The recorded information obtained from the prescription label must include the medication:~~

~~————(i) name;~~

~~————(ii) strength;~~

~~————(iii) dosage;~~

~~————(iv) amount received;~~

~~————(v) directions for use;~~

~~———— (vi) route of administration;~~

~~———— (vii) prescription number;~~

~~———— (viii) pharmacy name; and~~

~~———— (ix) the date each medication was issued by the pharmacy.~~

~~— (2) Supervision. Supervision of a resident's medication regimen by facility staff may be provided to residents who are incapable of self-administering without assistance to include and be limited to:~~

~~———— (A) reminders to take their medications at the prescribed time;~~

~~———— (B) opening containers or packages and replacing lids;~~

~~———— (C) pouring prescribed dosage according to medication profile record;~~

~~———— (D) returning medications to the proper locked areas;~~

~~———— (E) obtaining medications from a pharmacy; and~~

~~———— (F) listing on an individual resident's medication profile record the medication:~~

~~———— (i) name;~~

~~———— (ii) strength;~~

~~———— (iii) dosage;~~

~~———— (iv) amount received;~~

~~———— (v) directions for use;~~

~~———— (vi) route of administration;~~

~~———— (vii) prescription number;~~

~~———— (viii) pharmacy name; and~~

~~———— (ix) the date each medication was issued by the pharmacy.~~

~~— (3) Self-administration.~~

~~———— (A) Residents who self-administer their own medications and keep them locked in their room must be counseled at least once a month by facility staff to ascertain if the residents continue to be capable of self-administering their medications or treatments and if security of medications can continue to be maintained. The facility must keep a written record of counseling.~~

~~———— (B) Residents who choose to keep their medications locked in the central medication storage area may be permitted entrance or access to the area for the purpose of self-administering their own medication or treatment regimen. A facility-~~

~~staff member must remain in or at the storage area the entire time any resident is present.~~

~~—(4) General.~~

~~—(A) Facility staff will immediately report to the resident's physician and responsible party any unusual reactions to medications or treatments.~~

~~—(B) When the facility supervises or administers the medications, a written record must be kept when the resident does not receive or take his or her medications or treatments as prescribed. The documentation must include the date and time the dose should have been taken, and the name and strength of medication missed; however, the recording of missed doses of medication does not apply when the resident is away from the facility.~~

~~—(5) Storage.~~

~~—(A) The facility must provide a locked area for all medications. Examples of areas include:~~

~~—(i) central storage area;~~

~~—(ii) medication cart; and~~

~~—(iii) resident room.~~

~~—(B) Each resident's medication must be stored separately from other resident's medications within the storage area.~~

~~—(C) A refrigerator must have a designated and locked storage area for medications that require refrigeration, unless it is inside a locked medication room.~~

~~—(D) Poisonous substances and medications labeled for "external use only" must be stored separately within the locked medication area.~~

~~—(E) If facilities store controlled drugs, facility policies and procedures must address the prevention of the diversion of the controlled drugs.~~

~~—(6) Disposal.~~

~~—(A) Medications no longer being used by the resident for the following reasons are to be kept separate from current medications and are to be disposed of by a registered pharmacist licensed in the State of Texas:~~

~~—(i) medications discontinued by order of the physician;~~

~~—(ii) medications that remain after a resident is deceased; or~~

~~—(iii) medications that have passed the expiration date.~~

~~—(B) Needles and hypodermic syringes with needles attached must be disposed as required by 25 TAC §§1.131—1.137.~~

~~——(C) Medications kept in a central storage area are released to discharged residents when a receipt has been signed by the resident or responsible party.~~

~~(b) Accident, injury, or acute illness.~~

~~——(1) In the event of accident or injury that requires emergency medical, dental or nursing care, or in the event of apparent death, the facility will~~

~~——(A) make arrangements for emergency care or transfer to an appropriate place for treatment, such as a physician's office, clinic, or hospital;~~

~~——(B) immediately notify the resident's physician and next of kin, responsible party, or agency who placed the resident in the facility; and~~

~~——(C) describe and document the injury, accident, or illness on a separate report. The report must contain a statement of final disposition and be maintained on file.~~

~~——(2) The facility must stock and maintain in a single location first aid supplies to treat burns, cuts, and poisoning.~~

~~——(3) Residents who need the services of professional nursing or medical personnel due to a temporary illness or injury may have those services delivered by persons qualified to deliver the necessary service.~~

~~(c) Health Care Professional.~~

~~——(1) A health care professional may coordinate the provision of services to a resident within the professional's scope of practice and as authorized under Texas Health and Safety Code, Chapter 247, however, a facility must not provide ongoing services to a resident that are comparable to the services available in a nursing facility licensed under Texas Health and Safety Code, Chapter 242.~~

~~——(2) A resident may contract with a home and community support services agency licensed under Chapter 558 of this title, or with an independent health professional, to have health care services delivered to the resident at the facility.~~

~~(d) Activities program. The facility must provide an activity or social program at least weekly for the residents.~~

~~(e) Dietary services.~~

~~——(1) A person designated by the facility is responsible for the total food service of the facility.~~

~~——(2) At least three meals or their equivalent must be served daily, at regular times, with no more than a 16-hour span between a substantial evening meal and breakfast the following morning. All exceptions must be specifically approved by HHSC.~~

~~——(3) Menus must be planned one week in advance and must be followed. Variations from the posted menus must be documented. Menus must be prepared~~

~~to provide a balanced and nutritious diet, such as that recommended by the National Food and Nutrition Board. Food must be palatable and varied. Records of menus as served must be filed and maintained for 30 days after the date of serving.~~

~~—(4) Therapeutic diets as ordered by the resident's physician must be provided according to the service plan. Therapeutic diets that cannot customarily be prepared by a layperson must be calculated by a qualified dietician. Therapeutic diets that can customarily be prepared by a person in a family setting may be served by the facility.~~

~~—(5) Supplies of staple foods for a minimum of a four-day period and perishable foods for a minimum of a one-day period must be maintained on the premises.~~

~~—(6) Food must be obtained from sources that comply with all laws relating to food and food labeling. If food subject to spoilage is removed from its original container, it must be kept sealed and labeled. Food subject to spoilage must also be dated.~~

~~—(7) Plastic containers with tight fitting lids are acceptable for storage of staple foods in the pantry.~~

~~—(8) Potentially hazardous food, such as meat and milk products, must be stored at 45 degrees Fahrenheit or below. Hot food must be kept at 140 degrees Fahrenheit or above during preparation and serving. Food that is reheated must be heated to a minimum of 165 degrees Fahrenheit.~~

~~—(9) Freezers must be kept at a temperature of 0 degrees Fahrenheit or below and refrigerators must be 41 degrees Fahrenheit or below. Thermometers must be placed in the warmest area of the refrigerator and freezer to assure proper temperature.~~

~~—(10) Food must be prepared and served with the least possible manual contact, with suitable utensils, and on surfaces that have been cleaned, rinsed, and sanitized before use to prevent cross-contamination.~~

~~—(11) Facilities must prepare food in accordance with established food-preparation practices and safety techniques.~~

~~—(12) A food service employee, while infected with a communicable disease that can be transmitted by foods, or who is a carrier of organisms that cause such a disease or while afflicted with a boil, an infected wound, or an acute respiratory infection, must not work in the food service area in any capacity in which there is a likelihood of such person contaminating food or food-contact surfaces with pathogenic organisms or transmitting disease to other persons.~~

~~—(13) Effective hair restraints must be worn to prevent the contamination of food.~~

~~—(14) Tobacco products must not be used in the food preparation and service areas.~~

~~—(15) Kitchen employees must wash their hands before returning to work after using the lavatory.~~

~~—(16) Dishwashing chemicals used in the kitchen may be stored in plastic containers if they are the original containers in which the manufacturer packaged the chemicals.~~

~~—(17) Sanitary dishwashing procedures and techniques must be followed.~~

~~—(18) Facilities that house 17 or more residents must comply with 25 TAC Chapter 228 (relating to Retail Food) and local health ordinances or requirements must be observed in the storage, preparation, and distribution of food; in the cleaning of dishes, equipment, and work area; and in the storage and disposal of waste.~~

~~(f) Infection prevention and control.~~

~~—(1) Each facility must establish, implement, enforce, and maintain an infection prevention and control policy and procedure designated to provide a safe, sanitary, and comfortable environment and to help prevent the development and transmission of disease and infection.~~

~~—(2) The facility must comply with rules regarding special waste in 25 TAC Chapter 1, Subchapter K (relating to Definition, Treatment, and Disposition of Special Waste from Health Care-Related Facilities).~~

~~—(3) The facility must immediately report the name of any resident of a facility with a reportable disease as specified in 25 TAC Chapter 97, Subchapter A (relating to Control of Communicable Diseases) to the city health officer, county health officer, or health unit director having jurisdiction, and implement appropriate infection control procedures as directed by the local health authority.~~

~~—(4) The facility must have, implement, enforce, and maintain written policies for the control of communicable disease among employees and residents, which must address tuberculosis (TB) screening and provision of a safe and sanitary environment for residents and employees.~~

~~——(A) If an employee contracts a communicable disease that is transmissible to residents through food handling or direct resident care, the facility must exclude the employee from providing these services for the applicable period of communicability.~~

~~——(B) The facility must maintain evidence of compliance with local and state health codes or ordinances regarding employee and resident health status.~~

~~——(C) The facility must screen all employees for TB within two weeks of employment and annually, according to Centers for Disease Control and Prevention (CDC) screening guidelines. All persons who provide services under an outside-resource contract must, upon request of the facility, provide evidence of compliance with this requirement.~~

~~—— (D) The facility's policies and practices for resident TB screening must ensure compliance with the recommendations of a resident's attending physician and consistency with CDC guidelines.~~

~~—— (5) The facility's infection prevention and control program established under paragraph (1) of this subsection must include written policies and procedures for:~~

~~—— (A) monitoring key infectious agents, including multidrug-resistant organisms, as those terms are respectively defined in §553.3 of this chapter (relating to Definitions);~~

~~—— (B) wearing personal protective equipment, such as gloves, a gown, or a mask when called on for anticipated exposure, and properly cleaning hands before and after touching another resident;~~

~~—— (C) cleaning and disinfecting environmental surfaces, including door knobs, handrails, light switches, and hand-held electronic control devices;~~

~~—— (D) using universal precautions for blood and bodily fluids; and~~

~~—— (E) removing soiled items (such as used tissues, wound dressings, incontinence briefs, and soiled linens) from the environment at least once daily, or more often if an infection or infectious disease is present or suspected.~~

~~—— (6) The facility must establish, implement, enforce, and maintain a written policy and procedures for making a rapid influenza diagnostic test, as defined in §553.3 of this chapter, available to a resident who is exhibiting flu-like symptoms.~~

~~—— (7) Personnel must handle, store, process, and transport linens to prevent the spread of infection.~~

~~—— (8) A facility must use universal precautions in the care of all residents.~~

~~—— (9) A facility must establish, implement, enforce, and maintain a written policy to protect a resident from vaccine-preventable diseases in accordance with Texas Health and Safety Code, Chapter 224.~~

~~—— (A) The policy must:~~

~~—— (i) require an employee or a contractor providing direct care to a resident to receive vaccines for the vaccine-preventable diseases specified by the facility based on the level of risk the employee or contractor presents to residents by the employee's or contractor's routine and direct exposure to residents;~~

~~—— (ii) specify the vaccines an employee or contractor is required to receive in accordance with clause (i) of this subparagraph;~~

~~—— (iii) include procedures for the facility to verify that an employee or contractor has complied with the policy;~~

~~—— (iv) include procedures for the facility to exempt an employee or contractor from the required vaccines for the medical conditions identified as~~

~~contraindications or precautions by the CDC;~~

~~————— (v) include procedures the employee or contractor must follow to protect residents from exposure to disease for an employee or contractor who is exempt from the required vaccines, such as the use of protective equipment, like gloves and masks, based on the level of risk the employee or contractor presents to residents by the employee's or contractor's routine and direct exposure to residents;~~

~~————— (vi) prohibit discrimination or retaliatory action against an employee or contractor who is exempt from the required vaccines for the medical conditions identified as contraindications or precautions by the CDC, except that required use of protective medical equipment, including gloves and masks, may not be considered retaliatory action;~~

~~————— (vii) require the facility to maintain a written or electronic record of each employee's or contractor's compliance with or exemption from the policy; and~~

~~————— (viii) include disciplinary actions the facility may take against an employee or contractor who fails to comply with the policy.~~

~~————— (B) The policy may:~~

~~————— (i) include procedures for an employee or contractor to be exempt from the required vaccines based on reasons of conscience, including religious beliefs; and~~

~~————— (ii) prohibit an employee or contractor who is exempt from the required vaccines from having contact with residents during a public health disaster, as defined in Texas Health and Safety Code §81.003.~~

~~(g) Restraints and seclusion. All restraints for purposes of behavioral management, staff convenience, or resident discipline are prohibited. Seclusion is prohibited.~~

~~—— (1) As provided in §553.267(a)(3) of this subchapter (relating to Rights), a facility may use physical or chemical restraints only:~~

~~————— (A) if the use is authorized in writing by a physician and specifies:~~

~~————— (i) the circumstances under which a restraint may be used; and~~

~~————— (ii) the duration for which the restraint may be used; or~~

~~————— (B) if the use is necessary in an emergency to protect the resident or others from injury.~~

~~—— (2) A behavioral emergency is a situation in which severely aggressive, destructive, violent, or self-injurious behavior exhibited by a resident:~~

~~————— (A) poses a substantial risk of imminent probable death of, or substantial bodily harm to, the resident or others;~~

~~—— (B) has not abated in response to attempted preventive de-escalatory or redirection techniques;~~

~~—— (C) could not reasonably have been anticipated; and~~

~~—— (D) is not addressed in the resident's service plan.~~

~~—— (3) Except in a behavioral emergency, a restraint must be administered only by qualified medical personnel.~~

~~—— (4) A restraint must not be administered under any circumstance if it:~~

~~—— (A) obstructs the resident's airway, including a procedure that places anything in, on, or over the resident's mouth or nose;~~

~~—— (B) impairs the resident's breathing by putting pressure on the resident's torso;~~

~~—— (C) interferes with the resident's ability to communicate; or~~

~~—— (D) places the resident in a prone or supine position.~~

~~—— (5) If a facility uses a restraint hold in a circumstance described in paragraph (2) of this subsection, the facility must use an acceptable restraint hold.~~

~~—— (A) An acceptable restraint hold is a hold in which the individual's limbs are held close to the body to limit or prevent movement and that does not violate the provisions of paragraph (4) of this subsection.~~

~~—— (B) After the use of restraint, the facility must:~~

~~—— (i) with the resident's consent, make an appointment with the resident's physician no later than the end of the first working day after the use of restraint and document in the resident's record that the appointment was made; or~~

~~—— (ii) if the resident refuses to see the physician, document the refusal in the resident's record.~~

~~—— (C) As soon as possible but no later than 24 hours after the use of restraint, the facility must notify one of the following persons, if there is such a person, that the resident has been restrained:~~

~~—— (i) the resident's legally authorized representative; or~~

~~—— (ii) an individual actively involved in the resident's care, unless the release of this information would violate other law.~~

~~—— (D) If, under the Health Insurance Portability and Accountability Act, the facility is a "covered entity," as defined in 45 CFR §160.103, any notification provided under subparagraph (C)(ii) of this paragraph must be to a person to whom the facility is allowed to release information under 45 CFR §164.510.~~

~~—— (6) In order to decrease the frequency of the use of restraint, facility staff must~~

~~be aware of and adhere to the findings of the resident assessment required in §553.259(b) of this subchapter (relating to Admission Policies and Procedures) for each resident.~~

~~—(7) A facility may adopt policies that allow less use of restraint than allowed by the rules of this chapter.~~

~~—(8) A facility may not discharge or otherwise retaliate against:~~

~~——(A) an employee, resident, or other person because the employee, resident, or other person files a complaint, presents a grievance, or otherwise provides in good faith information relating to the misuse of restraint or seclusion at the facility; or~~

~~——(B) a resident because someone on behalf of the resident files a complaint, presents a grievance, or otherwise provides in good faith information relating to the misuse of restraint or seclusion at the facility.~~

~~(h) Wheelchair self-release seat belts.~~

~~—(1) For the purposes of this section, a "self-release seat belt" is a seat belt on a resident's wheelchair that the resident demonstrates the ability to fasten and release without assistance. A self-release seat belt is not a restraint.~~

~~—(2) Except as provided in paragraph (3) of this subsection, a facility must allow a resident to use a self-release seat belt if:~~

~~——(A) the resident or the resident's legal guardian requests that the resident use a self-release seat belt;~~

~~——(B) the resident consistently demonstrates the ability to fasten and release the self-release seat belt without assistance;~~

~~——(C) the use of the self-release seat belt is documented in and complies with the resident's individual service plan; and~~

~~——(D) the facility receives written authorization, signed by the resident or the resident's legal guardian, for the resident to use the self-release seat belt.~~

~~—(3) A facility that advertises as a restraint-free facility is not required to allow a resident to use a self-release seat belt if the facility:~~

~~——(A) provides a written statement to all residents that the facility is restraint-free and is not required to allow a resident to use a self-release seat belt; and~~

~~——(B) makes reasonable efforts to accommodate the concerns of a resident who requests a self-release seat belt in accordance with paragraph (2) of this subsection.~~

~~—(4) A facility is not required to continue to allow a resident to use a self-release seat belt in accordance with paragraph (2) of this subsection if:~~

~~——(A) the resident cannot consistently demonstrate the ability to fasten and release the seat belt without assistance;~~

~~——(B) the use of the self-release seat belt does not comply with the resident's individual service plan; or~~

~~——(C) the resident or the resident's legal guardian revokes in writing the authorization for the resident to use the self-release seat belt.]~~

~~[§553.263. Health maintenance activities.~~

~~(a) A facility may allow personal care staff to perform a health maintenance activity (HMA) for a resident, without being delegated, only if:~~

~~——(1) the activity is performed for a person with a functional disability as defined in §553.3 of this chapter (relating to Definitions);~~

~~——(2) a registered nurse (RN) acting on behalf of the facility conducts and documents an assessment in accordance with subsection (b) of this section, and determines, based on the assessment, that the activity qualifies as an HMA not requiring delegation; and~~

~~——(3) the facility ensures and documents that all the conditions and requirements of subsection (c) of this section are met:~~

~~——(A) the resident, the resident's legally authorized representative, or other adult chosen by the resident, as applicable, is willing and able to direct personal care staff to perform the task without RN supervision; and~~

~~——(B) the resident, the resident's legally authorized representative, or other adult chosen by the resident, as applicable, is willing and able and has agreed in writing, to participate in directing the personal care staff's actions in carrying out the HMA;~~

~~——(4) the activity addresses a condition that is stable and predictable, as defined in §553.3 of this chapter; and~~

~~——(5) the activity is performed for a resident who could perform the task on his or her own but for a functional disability that prevents it.~~

~~(b) The RN conducting an assessment for purposes of subsection (a)(1) of this section must conduct it in accordance with Board of Nursing rules at 22 TAC §225.6 (relating to RN Assessment of the Client).~~

~~——(1) The RN's assessment must consider each element listed in 22 TAC §225.6, and all relevant aspects of the resident's environment, to develop an overall understanding of the resident's health status.~~

~~——(2) In assessing each element required by paragraph (1) of this subsection, the RN may consider strength in one element to compensate for or offset a weakness in another element, as long as the RN determines that all required conditions in~~

~~subsection (c) of this section are met.~~

~~—(3) The RN is not required to know the identity of the personal care staff member who will perform the activity or his or her specific qualifications. The RN is not required to determine the competency of the personal care staff who will perform the activity.~~

~~—(4) The RN must reassess a resident's status in accordance with this subsection any time there is a change in the resident's condition that may affect the resident's physical or cognitive abilities, or the stability or predictability of the resident's condition and, at a minimum, must reassess the resident's status:~~

~~——(A) at least once annually; or~~

~~——(B) at least once every six months if the resident has been diagnosed with Alzheimer's disease or a related disorder or resides in an Alzheimer's disease-certified facility or unit.~~

~~(c) To meet the condition of subsection (a)(2) of this section, the RN, in addition to conducting a resident assessment meeting the requirements of subsections (a)(1) and (b) of this section, must determine and document that all of the conditions listed in 22 TAC §225.8(a)(2) (relating to Health Maintenance Activities Not Requiring Delegation) exist.~~

~~(d) If the RN determines under subsection (a)(1) of this section that an activity does not qualify as an HMA not requiring delegation, personal care staff may perform that activity for the resident only if:~~

~~—(1) the RN has determined in accordance with 22 Texas Administrative Code (TAC) Chapter 225 (relating to RN Delegation to Personnel and Tasks Not Requiring Delegation in Independent Living Environments for Clients with Stable and Predictable Conditions) that:~~

~~——(A) the activity can be delegated to a personal care staff member; and~~

~~——(B) the activity constitutes the medication administration;~~

~~—(2) the RN has properly delegated the task to the personal care staff member in accordance with 22 TAC Chapter 225 and §553.261(a)(1)(A)(iii) of this chapter (relating to Coordination of Care); and~~

~~—(3) the medication and medication administration requirements of §553.261(a) of this chapter are otherwise met.]~~

~~[§553.265. Resident Records and Retention.~~

~~(a) Resident records.~~

~~—(1) Records that pertain to residents must be treated as confidential and properly safeguarded from unauthorized use, loss, or destruction.~~

~~—(2) Resident records must contain:~~

~~—— (A) information contained in the facility's standard and customary admission form;~~

~~—— (B) a record of the resident's assessments;~~

~~—— (C) the resident's service plan;~~

~~—— (D) physician's orders, if any;~~

~~—— (E) any advance directives;~~

~~—— (F) documentation of a health examination by a physician performed within 30 days before admission or 14 days after admission, unless:~~

~~—— (i) a transferring hospital or facility has a physical examination in the medical record; or~~

~~—— (ii) the resident is a Christian Scientist;~~

~~—— (G) documentation by health care professionals of any services delivered in accordance with the licensing, certification, or other regulatory standards applicable to the health care professional under law; and~~

~~—— (H) a copy of the most recent court order appointing a guardian of a resident or a resident's estate and letters of guardianship that the facility received in response to the request made in accordance with subsection (c) of this section.~~

~~—— (3) Records must be available to residents, their legal representatives, and HHSC staff.~~

~~(b) Resident finances. The facility must keep a simple financial record on all charges billed to the resident for care and these records must be available to HHSC. If the resident entrusts the handling of any personal finances to the facility, a simple financial record must be maintained to document accountability for receipts and expenditures, and these records must be available to HHSC. Receipts for payments from residents or family members must be issued upon request.~~

~~(c) Guardianship Record Requirements.~~

~~—— (1) A facility must request, from a resident's legally authorized representative or the person responsible for the resident's support, a copy of:~~

~~—— (A) the current court order appointing a guardian for the resident or the resident's estate; and~~

~~—— (B) current letters of guardianship for the resident.~~

~~—— (2) A facility must request the court order and letters of guardianship:~~

~~—— (A) when the facility admits an individual; and~~

~~—— (B) when the facility becomes aware a guardian is appointed after the facility admits a resident.~~

~~—(3) A facility must request an updated copy of the court order and letters of guardianship at each annual assessment and retain documentation of any change.~~

~~—(4) A facility must make at least one follow-up request within 30 days after the facility makes a request in accordance with paragraphs (2) or (3) of this subsection if the facility has not received:~~

~~——(A) a copy of the court order and letters of guardianship; or~~

~~——(B) a response that there is no court order or letters of guardianship.~~

~~—(5) A facility must keep in the resident's record:~~

~~——(A) documentation of the results of the request for the court order and letters of guardianship; and~~

~~——(B) a copy of the court order and letters of guardianship.]~~

~~[§553.267. Rights.~~

~~(a) Residents' Bill of Rights.~~

~~—(1) A facility must:~~

~~——(A) provide a copy of the Residents' Bill of Rights to each resident; and~~

~~——(B) post the Residents' Bill of Rights, as provided by HHSC, in a prominent place in the facility and written in the primary language of each resident.~~

~~—(2) A resident has all the rights, benefits, responsibilities, and privileges granted by the constitution and laws of this state and the United States, except where lawfully restricted. The resident has the right to be free of interference, coercion, discrimination, and reprisal in exercising these civil rights.~~

~~—(3) Each resident in the facility has the right to:~~

~~——(A) be free from physical and mental abuse, including corporal punishment or physical and chemical restraints that are administered for the purpose of discipline or convenience and not required to treat the resident's medical symptoms;~~

~~——(i) A provider may use physical or chemical restraints only if the use is authorized in writing by a physician or if the use is necessary in an emergency to protect the resident or others from injury.~~

~~——(ii) A physician's written authorization for the use of restraints must specify the circumstances under which the restraints may be used and the duration for which the restraints may be used.~~

~~——(iii) Except in an emergency, restraints may only be administered by qualified medical personnel.~~

~~——(B) participate in activities of social, religious, or community groups unless the participation interferes with the rights of others.~~

~~———(C) practice the religion of the resident's choice.~~

~~———(D) if intellectually disabled, with a court-appointed guardian of the person, participate in a behavior modification program involving use of restraints, consistent with subparagraph (A) of this paragraph, or adverse stimuli only with the informed consent of the guardian.~~

~~———(E) be treated with respect, consideration, and recognition of his or her dignity and individuality, without regard to race, religion, national origin, sex, age, disability, marital status, or source of payment. This means that the resident:~~

~~———(i) has the right to make his or her own choices regarding personal affairs, care, benefits, and services;~~

~~———(ii) has the right to be free from abuse, neglect, and exploitation; and~~

~~———(iii) if protective measures are required, has the right to designate a guardian or representative to ensure the right to quality stewardship of his or her affairs.~~

~~———(F) a safe and decent living environment.~~

~~———(G) not be prohibited from communicating in his or her native language with other residents or employees for the purpose of acquiring or providing any type of treatment, care, or services.~~

~~———(H) complain about the resident's care or treatment. The complaint may be made anonymously or communicated by a person designated by the resident. The provider must promptly respond to resolve the complaint. The provider must not discriminate or take other punitive action against a resident who makes a complaint.~~

~~———(I) receive and send unopened mail, and the provider must ensure that the resident's mail is sent and delivered promptly.~~

~~———(J) unrestricted communication, including personal visitation with any person of the resident's choice, including family members and representatives of advocacy groups and community service organizations, at any reasonable hour.~~

~~———(K) make contacts with the community and to achieve the highest level of independence, autonomy, and interaction with the community of which the resident is capable.~~

~~———(L) manage his or her financial affairs.~~

~~———(i) The resident may authorize in writing another person to manage his or her money.~~

~~———(ii) The resident may choose the manner in which his or her money is managed, including a money management program, a representative payee program, a financial power of attorney, a trust, or a similar method, and the~~

~~resident may choose the least restrictive of these methods.~~

~~———— (iii) The resident must be given, upon request of the resident or the resident's representative, but at least quarterly, an accounting of financial transactions made on his or her behalf by the facility should the facility accept his or her written delegation of this responsibility to the facility in conformance with state law.~~

~~———— (M) access the resident's records, which are confidential and may not be released without the resident's consent, except:~~

~~———— (i) to another provider, if the resident transfers residence; or~~

~~———— (ii) if the release is required by another law.~~

~~———— (N) choose and retain a personal physician and to be fully informed in advance about treatment or care that may affect the resident's well-being.~~

~~———— (O) participate in developing his or her individual service plan that describes the resident's medical, nursing, and psychological needs and how the needs will be met.~~

~~———— (P) be given the opportunity to refuse medical treatment or services after the resident:~~

~~———— (i) is advised by the person providing services of the possible consequences of refusing treatment or services; and~~

~~———— (ii) acknowledges that he or she understands the consequences of refusing treatment or services.~~

~~———— (Q) unaccompanied access to a telephone at a reasonable hour or in case of an emergency or personal crisis.~~

~~———— (R) 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.~~

~~———— (i) This right applies to medical treatment, written communications, telephone conversations, meeting with family, and access to resident councils.~~

~~———— (ii) If a resident is married and the spouse is receiving similar services, the couple may share a room.~~

~~———— (S) retain and use personal possessions, including clothing and furnishings, as space permits, and may be limited for the health and safety of other residents.~~

~~———— (T) determine his or her dress, hair style, or other personal effects according to individual preference, except the resident has the responsibility to maintain personal hygiene.~~

~~———— (U) retain and use personal property in his or her immediate living quarters~~

~~and to have an individual locked area (cabinet, closet, drawer, footlocker, etc.) in which to keep personal property.~~

~~—— (V) refuse to perform services for the facility, except as contracted for by the resident and operator.~~

~~—— (W) be informed by the provider no later than the 30th day after admission:~~

~~—— (i) whether the resident is entitled to benefits under Medicare or Medicaid; and~~

~~—— (ii) which items and services are covered by these benefits, including items or services for which the resident may not be charged.~~

~~—— (X) not be transferred or discharged unless:~~

~~—— (i) the transfer is for the resident's welfare, and the resident's needs cannot be met by the facility;~~

~~—— (ii) the resident's health is improved sufficiently so that services are no longer needed;~~

~~—— (iii) the resident's health and safety or the health and safety of another resident would be endangered if the transfer or discharge was not made;~~

~~—— (iv) the provider ceases to operate or to participate in the program that reimburses for the resident's treatment or care; or~~

~~—— (v) the resident fails, after reasonable and appropriate notice, to pay for services.~~

~~—— (Y) not be transferred or discharged, except in an emergency, until the 30th day after the date the facility provides written notice to the resident, the resident's legal representative, or a member of the resident's family, stating:~~

~~—— (i) that the facility intends to transfer or discharge the resident;~~

~~—— (ii) the reason for the transfer or discharge;~~

~~—— (iii) the effective date of the transfer or discharge;~~

~~—— (iv) if the resident is to be transferred, the location to which the resident will be transferred; and~~

~~—— (v) any appeal rights available to the resident.~~

~~—— (Z) leave the facility temporarily or permanently, subject to contractual or financial obligations.~~

~~—— (AA) have access to the State Ombudsman and a certified ombudsman.~~

~~—— (BB) execute an advance directive, under Texas Health and Safety Code, Chapter 166, or designate a guardian in advance of need to make decisions~~

~~regarding the resident's health care should the resident become incapacitated.~~

~~(b) Providers' Bill of Rights.~~

~~—(1) A facility must post a Providers' Bill of Rights in a prominent place in the facility.~~

~~—(2) The Providers' Bill of Rights must provide that a provider of assisted living services has the right to:~~

~~——(A) be shown consideration and respect that recognizes the dignity and individuality of the provider and the facility;~~

~~——(B) terminate a resident's contract for just cause after a written 30-day notice;~~

~~——(C) terminate a contract immediately, after notice to HHSC, if the provider finds that a resident creates a serious or immediate threat to the health, safety, or welfare of other residents of the facility, except during evening hours and on weekends or holidays, notice to HHSC must be made to 1-800-458-9858;~~

~~——(D) present grievances, file complaints, or provide information to state agencies or other persons without threat of reprisal or retaliation;~~

~~——(E) refuse to perform services for the resident or the resident's family other than those contracted for by the resident and the provider;~~

~~——(F) contract with the community to achieve the highest level of independence, autonomy, interaction, and services to residents;~~

~~——(G) access patient information concerning a client referred to the facility, which must remain confidential as provided by law;~~

~~——(H) refuse a person referred to the facility if the referral is inappropriate;~~

~~——(I) maintain an environment free of weapons and drugs; and~~

~~——(J) be made aware of a resident's problems, including self-abuse, violent behavior, alcoholism, or drug abuse.~~

~~(c) Access to residents. The facility must allow an employee of HHSC or an employee of a local authority into the facility as necessary to provide services to a resident.~~

~~(d) Authorized electronic monitoring (AEM).~~

~~—(1) A facility must permit a resident, or the resident's guardian or legal representative, to monitor the resident's room through the use of electronic monitoring devices.~~

~~—(2) A facility may not refuse to admit an individual and may not discharge a resident because of a request to conduct authorized electronic monitoring.~~

~~—(3) HHSC Information Regarding Authorized Electronic Monitoring form must be signed by or on behalf of all new residents upon admission. The form must be completed and signed by or on behalf of all current residents. A copy of the form must be maintained in the active portion of the resident's clinical record.~~

Figure: 26 TAC §553.267(d)(3)

~~—(4) A resident, or the resident's guardian or legal representative, who wishes to conduct AEM must request AEM by giving a completed, signed, and dated HHSC Request for Authorized Electronic Monitoring form to the manager or designee. A copy of the form must be maintained in the active portion of the resident's clinical record.~~

~~——(A) If a resident has the capacity to request AEM and has not been judicially declared to lack the required capacity, only the resident may request AEM, notwithstanding the terms of any durable power of attorney or similar instrument.~~

~~——(B) If a resident has been judicially declared to lack the capacity required to request AEM, only the guardian of the resident may request AEM.~~

~~——(C) If a resident does not have the capacity to request AEM and has not been judicially declared to lack the required capacity, only the legal representative of the resident may request AEM.~~

~~——(i) A resident's physician makes the determination regarding the capacity to request AEM. Documentation of the determination must be made in the resident's clinical record.~~

~~——(ii) When a resident's physician determines the resident lacks the capacity to request AEM, a person from the following list, in order of priority, may act as the resident's legal representative for the limited purpose of requesting AEM:~~

~~——(I) a person named in the resident's medical power of attorney or other advance directive;~~

~~——(II) the resident's spouse;~~

~~——(III) an adult child of the resident who has the waiver and consent of all other qualified adult children of the resident to act as the sole decision maker;~~

~~——(IV) a majority of the resident's reasonably available adult children;~~

~~——(V) the resident's parents; or~~

~~——(VI) the individual clearly identified to act for the resident by the resident before the resident became incapacitated or the resident's nearest living relative.~~

~~—(5) A resident, or the resident's guardian or legal representative, who wishes to conduct AEM must also obtain the consent of other residents in the room, using the HHSC Consent to Authorized Electronic Monitoring form. When complete, the form~~

~~must be given to the manager or designee. A copy of the form must be maintained in the active portion of the resident's clinical record. AEM cannot be conducted without the consent of other residents in the room.~~

~~—— (A) Consent to AEM may be given only by:~~

~~—— (i) the other resident or residents in the room;~~

~~—— (ii) the guardian of the other resident, if the resident has been judicially declared to lack the required capacity; or~~

~~—— (iii) the legal representative of the other resident, determined by following the same procedure established under paragraph (4)(C) of this subsection.~~

~~—— (B) Another resident in the room may condition consent on:~~

~~—— (i) pointing the camera away from the consenting resident, when the proposed electronic monitoring is a video surveillance camera; and~~

~~—— (ii) limiting or prohibiting the use of an audio electronic monitoring device.~~

~~—— (C) AEM must be conducted in accordance with any limitation placed on the monitoring as a condition of the consent given by or on behalf of another resident in the room. The resident's roommate, or the roommate's guardian or legal representative, assumes responsibility for assuring AEM is conducted according to the designated limitations.~~

~~—— (D) If AEM is being conducted in a resident's room, and another resident is moved into the room who has not yet consented to AEM, the monitoring must cease until the new resident, or the resident's guardian or legal representative, consents.~~

~~—— (6) When the completed HHSC Request for Authorized Electronic Monitoring form and the HHSC Consent to Authorized Electronic Monitoring form, if applicable, have been given to the manager or designee, AEM may begin.~~

~~—— (A) Anyone conducting AEM must post and maintain a conspicuous notice at the entrance to the resident's room. The notice must state that the room is being monitored by an electronic monitoring device.~~

~~—— (B) The resident, or the resident's guardian or legal representative, must pay for all costs associated with conducting AEM, including installation in compliance with life safety and electrical codes, maintenance, removal of the equipment, posting and removal of the notice, or repair following removal of the equipment and notice, other than the cost of electricity.~~

~~—— (C) The facility must meet residents' requests to have a video camera obstructed to protect their dignity.~~

~~—— (D) The facility must make reasonable physical accommodation for AEM, which includes providing:~~

~~———— (i) a reasonably secure place to mount the video surveillance camera or other electronic monitoring device; and~~

~~———— (ii) access to power sources for the video surveillance camera or other electronic monitoring device.~~

~~—— (7) All facilities, regardless of whether AEM is being conducted, must post an 8-1/2 inch by 11 inch notice at the main facility entrance. The notice must be entitled "Electronic Monitoring" and must state, in large, easy to read type, "The rooms of some residents may be monitored electronically by or on behalf of the residents. Monitoring may not be open and obvious in all cases."~~

~~—— (8) A facility may:~~

~~—— (A) require an electronic monitoring device to be installed in a manner that is safe for residents, employees, or visitors who may be moving about the room, and meets all local and state regulations;~~

~~—— (B) require AEM to be conducted in plain view; and~~

~~—— (C) place a resident in a different room to accommodate a request for AEM.~~

~~—— (9) A facility may not discharge a resident because covert electronic monitoring is being conducted by or on behalf of a resident. If a facility discovers a covert electronic monitoring device and it is no longer covert as defined in §553.3 of this chapter (relating to Definitions), the resident must meet all the requirements for AEM before monitoring is allowed to continue.~~

~~—— (10) All instances of abuse or neglect must be reported to HHSC, as required by §553.273 of this subchapter (relating to Abuse, Neglect, or Exploitation Reportable to HHSC by Facilities). For purposes of the duty to report abuse or neglect, the following apply:~~

~~—— (A) A person who is conducting electronic monitoring on behalf of a resident is considered to have viewed or listened to a recording made by the electronic monitoring device on or before the 14th day after the date the recording is made.~~

~~—— (B) If a resident, who has capacity to determine that the resident has been abused or neglected and who is conducting electronic monitoring, gives a recording made by the electronic monitoring device to a person and directs the person to view or listen to the recording to determine whether abuse or neglect has occurred, the person to whom the resident gives the recording is considered to have viewed or listened to the recording on or before the seventh day after the date the person receives the recording.~~

~~—— (C) A person is required to report abuse based on the person's viewing of or listening to a recording only if the incident of abuse is acquired on the recording. A person is required to report neglect based on the person's viewing of or listening to a recording only if it is clear from viewing or listening to the recording that neglect has occurred.~~

~~—— (D) If abuse or neglect of the resident is reported to the facility and the facility requests a copy of any relevant recording made by an electronic monitoring device, the person who possesses the recording must provide the facility with a copy at the facility's expense. The cost of the copy must not exceed the community standard. If the contents of the recording are transferred from the original technological format, a qualified professional must do the transfer.~~

~~—— (E) A person who sends more than one recording to HHSC must identify each recording on which the person believes an incident of abuse or evidence of neglect may be found. Tapes or recordings should identify the place on the recording that an incident of abuse or evidence of neglect may be found.]~~

~~[§553.269. Access to Residents and Records by the State Long Term Care Ombudsman Program.~~

~~(a) A resident has the right to be visited by the State Ombudsman, a certified ombudsman, or an ombudsman intern.~~

~~(b) In accordance with 42 United States Code (U.S. Code) §3058g (b)(1)(A) and 45 CFR §1324.11(e)(2), a facility must allow:~~

~~—— (1) the State Ombudsman, a certified ombudsman, and an ombudsman intern to have:~~

~~—— (A) immediate, private, and unimpeded access to enter the facility at any time during the facility's regular business hours or regular visiting hours;~~

~~—— (B) immediate, private, and unimpeded access to a resident; and~~

~~—— (C) immediate and unimpeded access to the name and contact information of the resident's legally authorized representative, if the State Ombudsman, a certified ombudsman, or an ombudsman intern determines the information is needed to perform a function of the Ombudsman Program; and~~

~~—— (2) the State Ombudsman and a certified ombudsman to have immediate, private, and unimpeded access to enter the facility at a time other than regular business hours or visiting hours, if the State Ombudsman or a certified ombudsman determines access may be required by the circumstances to be investigated.~~

~~(c) A facility, in accordance with 42 U.S. Code §3058g (b)(1)(B) and 45 CFR §1324.11(e)(2), must allow the State Ombudsman and a certified ombudsman to have immediate access to:~~

~~—— (1) all files, records, and other information concerning a resident, including an incident report involving the resident, if:~~

~~—— (A) the State Ombudsman or certified ombudsman has the consent of the resident or legally authorized representative;~~

~~—— (B) the resident is unable to communicate consent to access and has no legally authorized representative; or~~

~~——(C) such access is necessary to investigate a complaint and the following occurs:~~

~~——(i) the resident's legally authorized representative refuses to give consent to access to the records, files, and other information;~~

~~——(ii) the State Ombudsman or certified ombudsman has reasonable cause to believe that the legally authorized representative is not acting in the best interests of the resident; and~~

~~——(iii) if it is the certified ombudsman seeking access to the records, files, or other information, the certified ombudsman obtains the approval of the State Ombudsman to access the records, files, or other information without the legally authorized representative's consent; and~~

~~——(2) the administrative records, policies, and documents of the facility to which the residents or general public have access.~~

~~(d) The rules adopted under the Health Insurance Portability and Accountability Act of 1996, 45 CFR part 164, subparts A and E, do not preclude a facility from releasing protected health information or other identifying information regarding a resident to the State Ombudsman or a certified ombudsman if the requirements of subsections (b)(1)(C) and (c)(1) of this section are otherwise met. The State Ombudsman and a certified ombudsman are each a "health oversight agency" as that phrase is defined in 45 CFR §164.501.]~~

~~[§553.271. Postings:~~

~~An assisted living facility must prominently and conspicuously post for display in a public area of the facility that is readily available to residents, employees, and visitors:~~

~~——(1) the license issued under this chapter;~~

~~——(2) a sign prescribed by HHSC that specifies complaint procedures established under these rules and specifies how complaints may be filed with HHSC;~~

~~——(3) a notice in the form prescribed by HHSC stating that inspection and related reports are available at the facility for public inspection and providing HHSC toll-free telephone number that may be used to obtain information concerning the facility;~~

~~——(4) a copy of the most recent inspection report relating to the facility;~~

~~——(5) Residents' Bill of Rights;~~

~~——(6) Providers' Bill of Rights;~~

~~——(7) the telephone number of the managing local ombudsman and the toll-free number of the Ombudsman Program, 1-800-252-2412;~~

~~——(8) the facility's normal 24-hour staffing patterns; and~~

~~—(9) a sign stating: "Cases of Suspected Abuse, Neglect, or Exploitation must be reported to HHSC by calling 1-800-458-9858."~~

~~[§553.272. Advertisements, Solicitations, and Promotional Material.~~

~~A facility must use its state-issued facility identification number in all advertisements, solicitations, and promotional materials, including yellow pages, brochures, and business cards.]~~

~~[§553.273. Abuse, Neglect, or Exploitation Reportable to HHSC by Facilities.~~

~~(a) An assisted living facility staff who has cause to believe that the physical or mental health or welfare of a resident has been or may be adversely affected by abuse, neglect, or exploitation or that the resident has died due to abuse or neglect, must report the abuse, neglect, or exploitation to:~~

~~—(1) HHSC Consumer Rights and Services section at 1-800-458-9858 or via the HHSC website; and~~

~~—(2) one of the following law enforcement agencies:~~

~~——(A) a municipal law enforcement agency, if the facility is located within the territorial boundaries of a municipality; or~~

~~——(B) the sheriff's department of the county in which the facility is located if the facility is not located within the territorial boundaries of a municipality.~~

~~(b) An assisted living facility must follow its internal policies regarding the prevention, detection, and reporting of abuse, neglect, or exploitation.~~

~~(c) The following information must be reported to HHSC:~~

~~—(1) name, age, and address of the resident;~~

~~—(2) name and address of the person responsible for the care of the resident, if available;~~

~~—(3) nature and extent of the elderly or disabled person's condition;~~

~~—(4) basis of the reporter's knowledge; and~~

~~—(5) any other relevant information.~~

~~(d) An assisted living facility must immediately make an oral report to HHSC of the alleged abuse, neglect, or exploitation and must investigate the allegation and send a written report of the investigation to HHSC state office no later than the fifth calendar day after the oral report.~~

~~(e) An assisted living facility may not retaliate against a person for filing a complaint, presenting a grievance, or providing in good faith information relating to personal care services provided by the facility.~~

~~(f) An assisted living facility must require facility staff, as a condition of~~

~~employment with the facility, to sign a statement indicating that the employee may be criminally liable for the failure to report abuse, neglect, or exploitation.]~~

~~[§553.275. 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 a disaster or emergency.~~

~~—(2) Disaster or emergency—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 disaster or emergency, 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 a disaster or emergency.~~

~~—(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 or title, 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 a disaster~~

~~or emergency 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 facility actions affecting residents during a disaster or emergency, including an impending or actual evacuation, and for maintaining ongoing communication with them for the duration of the disaster, emergency, 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 to evacuate some or all of a facility's residents, on a temporary basis due to a disaster or emergency, 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 emergencies 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 emergencies or disasters relevant to the facility's operations and location, 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 a disaster or emergency.~~

~~—(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 a disaster or emergency based on its plan and follow each plan procedure and requirement, including contingency procedures, at the time it is called for in the event of a disaster or emergency. 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 disaster or emergency; and~~

~~—— (C) include the location of a current list of the facility's resident population, which must be maintained as required under 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 chapter (relating to Decrease in Capacity); 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 notify the EMC of the facility's emergency preparedness and response plan, take actions to coordinate its planning and emergency response with the EMC, and document communications with the EMC regarding plan coordination.~~

~~(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 residents' legally authorized representatives at all times;~~

~~—— (2) at least annually and after an event described in subparagraphs (A)–(D) of this paragraph, review the plan, its evacuation summary, if any, and the contact lists described in subsection (g)(3) of this section, and update each:~~

~~—— (A) to reflect changes in information, including when an evacuation waiver is approved under §553.41(f)(2) of this chapter;~~

~~—— (B) within 30 days or as soon as practicable following a disaster or emergency if a shortcoming is manifested or identified during the facility's response;~~

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

~~—— (D) within 30 days after a change in a facility policy or HHSC rule that would impact the plan;~~

~~—— (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 residents and the residents' legally authorized representatives 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) of this section to a resident or legally authorized representative who does not receive an evacuation~~

~~summary under paragraph (4) of this subsection and requests that information;~~

~~—(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 a disaster or emergency. 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 a disaster or emergency;~~

~~—(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 a disaster or 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 for the EMC and other outside organizations, based on facility coordination with them, to notify the EPC or alternate EPC, as applicable, of a disaster or emergency;~~

~~—(2) identifies who, including during off hours, weekends, and holidays, the EPC or alternate EPC, as applicable, will notify of a disaster or emergency, 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 disaster or emergency 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, 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;~~

~~(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 and the facility's supplemental or alternate mode of communication, and procedures for communication if telecommunication is affected by a disaster or emergency;~~

~~—— (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, 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;~~

~~—— (D) personal contact information for facility staff, and~~

~~—— (E) the facility's resident population, which must identify 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; 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, including an impending or actual evacuation, and for maintaining ongoing communication for the duration of the emergency 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, if utilized at the time of evacuation, must be utilized in accordance with the pre-arranged acknowledged procedures described in subsection (i)(2)(C) of this section, where applicable, and must verify with the applicable destination that it is available, ready, and legally authorized at the time to receive the evacuated residents and can safely do so;~~

~~—— (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, 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, in areas used by residents during a disaster or emergency, power and ambient temperatures that are safe under the circumstances, but which may not be less than 68 degrees Fahrenheit or more than 82 degrees Fahrenheit; and~~

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

~~—— (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)(H) 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.~~

~~(i) Core Function Five: Evacuation.~~

~~—— (1) A facility has the discretion to determine when an evacuation is necessary for the health and safety of residents and staff. However, a facility must evacuate if the county judge of the county in which the facility is located, the mayor of the municipality in which the facility is located mandates it by an evacuation order issued independently or concurrently with 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 pets or service animals that reside in the facility;~~

~~—— (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 each applicable receiving facility or pre-arranged destination of the facility's plan to evacuate and to verify with the applicable destination that it is available, ready, and not legally restricted at the time from receiving the evacuated residents, and can do so safely;~~

~~—— (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)(H) of this section, the EMC, immediately after the EPC or alternate EPC, as applicable, makes a decision to evacuate, or as soon as feasible thereafter, if it is not safe to do so at the time of decision;~~

~~—— (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 and 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 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 during an evacuation to drive a vehicle owned, leased, or rented by the facility; notification procedures to ensure designated staff's availability at the time of an evacuation; and methods for maintaining communication with vehicles, staff, and drivers transporting facility residents or staff during evacuation, in accordance with subsection (g)(5)(A) and (G) 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: 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 each resident, notwithstanding an emergency, to continue to receive from the appropriate provider the services identified under paragraph (1) of this subsection; and~~

~~——(3) identifies procedures for the facility to notify home and community support services agencies and independent health care professionals that deliver services to residents in the facility of an evacuation in accordance with 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;~~

~~—(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; and~~

~~—(4) describes procedures and safeguards to protect the confidentiality, security, and integrity of resident records throughout an emergency 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 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 percent 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, while continuing to meet the needs of its own residents, and of 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; and~~

~~—— (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.~~

~~(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) prior to the staff member assuming job responsibilities; and~~

~~—— (B) when 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 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, and document, for each, the provision or refusal of such 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.~~

~~—— (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 to HHSC a death or serious injury of a resident, or threat to resident health or safety, resulting from an emergency or disaster 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 and resulting resident injury, death, or threat, 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 paragraph (2)(A) of this subsection.]~~

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§553.301. Manager or Supervisor Qualifications and Training.

(a) The manager of a ~~[the]~~ certified Alzheimer's facility or the supervisor of a ~~[the]~~ certified Alzheimer's unit must be 21 years of age or older, and have:

- (1) an associate ~~[associate's]~~ degree in nursing or health care management;
 - (2) a bachelor's degree in psychology, gerontology, nursing, or a related field;
- or
- (3) proof of graduation from an accredited high school or certification of equivalency of graduation and at least one year of experience working with persons with dementia.

(b) In addition to the manager training requirements in §553.253 of this chapter (relating to Employee Qualifications and Training), the ~~[The]~~ manager of an Alzheimer's certified facility or the supervisor of an Alzheimer's certified unit must complete six hours of annual continuing education regarding dementia care.

§553.303. Staff Training.

(a) In addition to the staff training requirements under §553.253 of this division ~~[chapter]~~ (relating to Employee Qualifications and Training), all staff members must receive four hours of dementia-specific orientation prior to assuming any job responsibilities. Training must cover, at a minimum, the following topics:

- (1) basic information about the causes, progression, recognition, and management of Alzheimer's disease and related disorders;
- (2) managing dysfunctional, disruptive, or maladaptive behavior~~[-]~~ and the causes of these behaviors;
- (3) identifying and alleviating safety risks to residents with Alzheimer's disease and related disorders; and~~[-]~~
- (4) basic infection prevention and control principles.

(b) In addition to the staff training requirements under §553.253 of this division ~~[chapter]~~, attendants must receive 16 hours of on-the-job supervision and training for care and services of individuals residing in the Alzheimer's certified unit before providing care in the unit ~~[within the first 16 hours of employment following orientation]~~. Training must cover:

- (1) providing assistance with the activities of daily living to individuals with a diagnosis of Alzheimer's disease or similar cognitive limitations;

(2) emergency and evacuation procedures specific to the residents residing in the Alzheimer's certified unit ~~[dementia population]~~;

(3) managing dysfunctional, disruptive, or maladaptive behavior; ~~[and]~~

(4) behavior management, including prevention of aggressive behavior and de-escalation techniques, ~~[fall prevention]~~, or alternatives to restraints; ~~[and]~~

(5) fall and accident prevention; and

(6) sexual relationships and consent.

(c) In addition to the staff training requirements under §553.253 of this division ~~[chapter]~~, attendants must annually complete 12 hours of in-service education regarding Alzheimer's disease and related disorders that meets the following criteria.

(1) One hour of annual training must address behavior management, including prevention of aggressive behavior and de-escalation techniques and alternatives to restraints.

(2) One hour of annual training must address ~~[, or]~~ fall and accident prevention ~~[, or alternatives to restraints]~~.

(3) One hour of annual training must address elopement prevention.

(4) The remaining nine hours of in-service training may include the following topics:

~~[Training for these subjects must be competency based. Subject matter must address the unique needs of the facility. Additional suggested topics include:]~~

(A)~~(1)~~ assessing resident capabilities and developing and implementing service plans;

(B)~~(2)~~ promoting resident dignity, independence, individuality, privacy, and choice;

(C)~~(3)~~ planning and facilitating activities appropriate for the dementia resident;

(D)~~(4)~~ communicating with families and other persons interested in the resident;

(E)~~(5)~~ resident rights and principles of self-determination;

(F)~~(6)~~ care of elderly persons with physical, cognitive, behavioral, and social disabilities;

(G)~~(7)~~ medical and social needs of the resident;

(H)~~(8)~~ common psychotropics and side effects; and

(I)(9)] local community resources.

(d) Training on the requirements in subsection (c) of this section must be competency-based and include competency verification through return demonstration or written or oral assessment as applicable. Subject matter must address the unique needs of the facility.

§553.305. Staffing.

(a) A facility must employ sufficient staff to provide services for, [and] meet the needs of, and ensure the health and safety of residents residing in the Alzheimer's certified facility or unit based on each resident's: [its Alzheimer's residents.]

(1) cognitive and physical acuity;

(2) behavioral health concerns; and

(3) wandering and elopement precautions.

(b) In a large facility or unit licensed for [facilities or units with] 17 or more residents, two staff members must be present and [immediately] available at all times to respond to resident needs upon request or as necessary when residents are present.

§553.307. Admission Procedures, Evaluation [Assessment], and Service Plan.

(a) Alzheimer's Assisted Living Disclosure Statement form. A facility must use the Alzheimer's Assisted Living Disclosure Statement form and amend the form if changes in the operation of the facility affect the information in the form.

(b) Pre-admission. The facility must establish procedures, such as an application process, interviews, and home visits, to ensure that the placement of prospective residents is appropriate and that their needs can be met.

(1) Prior to admitting a resident, facility staff must discuss and explain the Alzheimer's Assisted Living Disclosure Statement form with the legally authorized representative [family] or responsible party.

(2) The facility must give the Alzheimer's Assisted Living Disclosure Statement form to any individual seeking information about the facility's care or treatment of residents with Alzheimer's disease and related disorders.

(c) Evaluation [Assessment]. The facility must conduct a resident evaluation [make a comprehensive assessment] of a [each] resident within 14 days after admission and annually thereafter. The evaluation [assessment] must include the items listed in §553.259(b)(1) of this division [chapter] (relating to Admission Policies and Procedures).

(d) Service plan. Facility staff, with input from the family, if available, must develop an individualized service plan for each resident, based upon the resident evaluation [assessment], within 14 days after admission. The service plan must address the

individual needs, preferences, and strengths of the resident. The service plan must be designed to help the resident maintain the highest possible level of physical, cognitive, and social functioning. The service plan must be updated annually and upon a significant change in condition, based on an evaluation ~~[assessment]~~ of the resident.

§553.309. Activities Program.

(a) A facility must encourage socialization, cognitive awareness, self-expression, and physical activity in a planned and structured activities program. Activities must be individualized, based upon the resident evaluation ~~[assessment]~~, and appropriate for each resident's abilities.

(b) The activities ~~[activity]~~ program must contain a balanced mixture of activities addressing cognitive, recreational, and activity of daily living (ADL) needs.

(1) Cognitive activities include arts, crafts, storytelling, poetry readings, writing, music, reading, discussion, reminiscences, and reviews of current events.

(2) Recreational activities include all socially interactive activities, such as board games and cards, and physical exercise. Care of pets is encouraged.

(3) Self-care ADLs include grooming, bathing, dressing, oral care, and eating. Occupational ADLs include cleaning, dusting, cooking, gardening, and yard work. Residents must be allowed to perform self-care ADLs as long as they are able, to promote independence and self-worth.

(c) ~~The facility must encourage but never force residents~~ [Residents must be encouraged, but never forced,] to participate in activities. Residents who choose not to participate in a large group activity must be offered at least one small group or one-on-one activity per day.

(d) A facility ~~[Facilities]~~ must have an employee who is responsible for leading activities.

(1) A facility licensed for ~~[Facilities with]~~ 16 or fewer residents must designate an employee to plan, supply, implement, and record activities.

(2) A facility licensed for ~~[Facilities with]~~ 17 or more residents must employ, at a minimum, an activity director for 20 hours weekly. The activity director must be a qualified professional who:

(A) is a qualified therapeutic recreation specialist or an activities professional who is eligible for certification as a therapeutic recreation specialist, a therapeutic recreation assistant, or an activities professional by a recognized accrediting body, such as the National Council for Therapeutic Recreation Certification or ~~[,]~~ the National Certification Council for Activity Professionals ~~[, or the Consortium for Therapeutic Recreation/Activities Certification, Inc.];~~

(B) has two years of experience in a social or recreational program within the last five years, one year of which was full-time in an activities program in a health

care setting; or

(C) has completed an activity director training course approved by the National Association for Activity Professionals or the National Therapeutic Recreation Society.

(e) The activity director or designee must review each resident's medical and social history, preferences, and dislikes, in determining appropriate activities for the resident. Activities must be tailored to each resident's unique requirements and skills.

(f) The activities program must provide opportunities for group and individual settings. On weekdays, each resident must be offered at least one cognitive activity, two recreational activities, and three ADL activities each day. The cognitive and recreational activities (structured activities) must be at least 30 minutes in duration, with a minimum of six and a half hours of structured activity for the entire week. At least an hour and a half of structured activities must be provided during the weekend and must include at least one cognitive activity and one physical activity.

(g) The activity director or designee must create a monthly activities schedule. Structured activities should occur at the same time and place each week to ensure a consistent routine within the facility.

(h) The activity director or designee must annually attend at least six hours of continuing education regarding Alzheimer's disease or related disorders.

(i) Special equipment and supplies necessary to accommodate persons with a physical disability or other persons with special needs must be provided as appropriate.

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~~[§553.311. Physical Plant Requirements for Alzheimer's Units.~~

~~Alzheimer's units, if segregated from other parts of the Type B facility with approved security devices, must meet the following requirements within the Alzheimer's unit:~~

~~—(1) Resident living areas must be in compliance with applicable requirements in Subchapter D of this chapter (relating to Facility Construction).~~

~~—(2) Resident dining areas must be in compliance with applicable requirements in Subchapter D of this chapter for resident dining areas.~~

~~—(3) Resident toilet and bathing facilities must be in compliance with applicable requirements in Subchapter D of this chapter for resident toilet and bathing facilities.~~

~~—(4) A monitoring station must be provided within the Alzheimer's unit with a writing surface such as a desk or counter, chair, task illumination, telephone or intercom, and lockable storage for resident records.~~

~~—(5) Access to at least two approved exits remote from each other must be provided in order to meet the NFPA 101 requirements.~~

~~—(6) In large facilities, cross corridor control doors, if used for the security of the residents, must be similar to smoke doors, which are each 34 inches in width and swing in opposite directions. A latch or other fastening device on a door must be provided with a knob, handle, panic bar, or other simple type of releasing device.~~

~~—(7) An outdoor area of at least 800 square feet must be provided in at least one contiguous space. This area must be connected to, be a part of, be controlled by, and be directly accessible from the facility.~~

~~—(A) Such areas must have walls or fencing that do not allow climbing or present a hazard and meet the following requirements. These minimum dimensions do not apply to additional fencing erected along property lines or building setback lines for privacy or to meet requirements of local building authorities.~~

~~—(i) Minimum distance of the enclosure fence from the building is 8 feet if the fence is parallel to the building and there are no window openings.~~

~~—(ii) Minimum distance of the enclosure fence (parallel with building walls) from bedroom windows is 20 feet if the fencing is solid and 15 feet from bedroom windows if the fencing is open.~~

~~—(iii) For unusual or unique site conditions, areas of enclosure may have alternate configurations with HHSC approval.~~

~~———— (B) Access to at least two approved exits remote from each other must be provided from the enclosed area in order to meet the Life Safety Code requirements.~~

~~———— (C) If the enclosed area involves a required exit from the building, the following additional requirements must be met:~~

~~———— (i) A minimum of two gates must be remotely located from each other if only one exit is enclosed. If two or more exits are enclosed by the fencing and entry access can be made at each door, a minimum of one gate is required.~~

~~———— (ii) The gates must be located to provide a continuous path of travel from the building exit to a public way, including walkways of concrete, asphalt, or other approved materials.~~

~~———— (iii) If gates are locked, the gate nearest the exit from the building must be locked with an electronic lock that operates the same as electronic locks on control doors or exit doors and is in compliance with the National Electrical Code for exterior exposure. Additional gates may also have electronic locks or may have keyed locks provided staff carry the keys. All gates may have keyed locks, provided all staff carry the keys, and the outdoor area has an area of refuge which:~~

~~———— (I) extends beyond a minimum of 30 feet from the building; and~~

~~———— (II) the area of refuge allows at least 15 square feet per person (resident, staff, visitor) potentially present at the time of a fire.~~

~~—— (8) Locking devices may be used on the control doors provided the following criteria are met:~~

~~———— (A) The building must have an approved sprinkler system and an approved fire alarm system to meet the licensing standards.~~

~~———— (B) The locking device must be electronic and must be released when any one of the following occurs:~~

~~———— (i) activation of the fire alarm or sprinkler system;~~

~~———— (ii) power failure to the facility; or~~

~~———— (iii) activation of a switch or button located at the monitoring station and at the main staff station.~~

~~———— (C) A key pad or buttons may be located at the control doors for routine use by staff.~~

~~—— (9) Locking devices may be used on the exit doors provided:~~

~~———— (A) the locking arrangements meet §7.2.1.6 of the NFPA 101; or~~

~~———— (B) the following criteria are met:~~

~~————— (i) the building must have an approved sprinkler system and an approved fire alarm system to meet the licensing standards;—~~

~~————— (ii) the locking device must be electro-magnetic; that is, no type of throw-bolt is to be used;—~~

~~————— (iii) the device must release when any one of the following occurs:—~~

~~————— (I) activation of the fire alarm or sprinkler system;—~~

~~————— (II) power failure to the facility; or—~~

~~————— (III) activation of a switch or button located at the monitoring station and at the main staff station;—~~

~~————— (iv) a key pad or buttons may be located at the control doors for routine use by staff;—~~

~~————— (v) a manual fire alarm pull must be located within five feet of each exit door with a sign stating, "Pull to release door in an emergency"; and—~~

~~————— (vi) staff must be trained in the methods of releasing the door device.]~~

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SUBCHAPTER G INSPECTIONS, INVESTIGATIONS, AND INFORMAL DISPUTE
RESOLUTION

§553.327. Inspections, Investigations, and Other Visits.

(a) HHSC inspection and survey personnel perform inspections and surveys, follow-up visits, complaint investigations, investigations of abuse or neglect, and other contact visits from time to time as they deem appropriate, or as required for carrying out the responsibilities of licensing.

(b) In addition to the inspections required under Subchapter B of this chapter (relating to Licensing), HHSC may inspect ~~[inspects]~~ a facility ~~[at-least]~~ once every two years after the initial inspection.

(c) An inspection may be conducted by an individual surveyor or by a team, depending on the purpose of the inspection or survey, size of facility, and service provided by the facility, and other factors.

(d) To determine standard compliance which cannot be verified during regular working hours, HHSC, with the least possible interference to staff and residents, may conduct night or weekend inspections to cover specific aspects of a facility's operation.

(e) Generally, HHSC conducts routine and nonroutine inspections, surveys, complaint investigations, and other visits made for the purpose of determining the appropriateness of resident care and day-to-day operations of a facility on an unannounced basis, unless there is justification for an exception.

(f) Certain visits may be announced, including, but not limited to, conditions when certain emergencies arise, such as fire, windstorm, or malfunctioning or nonfunctioning of electrical or mechanical systems.

(g) When HHSC conducts a complaint investigation, HHSC notifies the facility of the complaint received and a summary of the complaint, without identifying the source of the complaint. A complaint is an allegation received by HHSC regarding:

(1) abuse, neglect, or exploitation of a resident; or

(2) a violation of state standards.

(h) The facility must make all books, records, and other documents maintained by or on behalf of a facility accessible to HHSC upon request.

(1) HHSC is authorized to photocopy documents, photograph residents, and use any other available recording devices to preserve all relevant evidence of conditions found during an inspection, survey, or investigation that HHSC reasonably believes threaten the health and safety of a resident.

(2) Records and documents which may be requested and photocopied or

otherwise reproduced include, but are not limited to, admission sheets, medication profiles, observation notes, medication refusal notes, and menu records.

(3) When the facility is requested to furnish the copies, the facility may charge HHSC at the rate not to exceed the rate charged by HHSC for copies. Collection must be by billing HHSC. The procedure of copying is the responsibility of the administrator or his designee. If copying requires removal of the records from the facility, a representative of the facility will be expected to accompany the records and ensure ~~[assure]~~ their order and preservation.

(4) HHSC protects the copies for privacy and confidentiality in accordance with recognized standards of medical records practice, applicable state laws, and HHSC policy.

(5) If a facility maintains electronic records, it must have a mechanism for printing all documentation if a surveyor or investigator requests a printed copy.

§553.328. Plan of Removal.

(a) During an onsite inspection, if HHSC finds a that a violation has created an immediate threat to the health and safety of a resident, a facility must submit sufficient documentation and present evidence showing that satisfactory action has been taken to resolve the immediacy of the identified threat by immediately submitting a plan of removal.

(b) The plan of removal must include:

(1) a description of steps the facility will take to remove the immediacy of the violation;

(2) a description of how affected or potentially affected residents will be identified;

(3) the immediate actions or changes the facility will make to ensure the violation does not reoccur and the staff responsible for oversight and implementation of the actions;

(4) the steps to be taken to monitor the changes; and

(5) a timeline for implementing all actions identified by the facility in the plan of removal.

(c) The facility must provide a plan of removal upon request from HHSC.

(d) The facility must implement all actions identified in the plan of removal.

§553.331. Determinations and Actions (Investigation Findings).

(a) HHSC determines if a facility meets HHSC licensing rules, including physical plant and facility operation requirements, by conducting inspections, surveys, investigations, and onsite ~~[on-site]~~ visits.

(b) HHSC lists violations of licensing rules on a report of contact. The report of contact includes a specific reference to a licensing rule that has been violated.

(c) At the conclusion of an inspection, survey, investigation, or onsite ~~[on-site]~~ visit, an HHSC surveyor conducts an exit conference to advise the facility of the findings resulting from the inspection, survey, investigation, or onsite ~~[on-site]~~ visit.

(d) At the exit conference, the surveyor provides a copy of the report of contact described in subsection (b) of this section to the facility.

(e) If, after the initial exit conference, an HHSC surveyor cites an additional licensing rule violation, the surveyor conducts another exit conference regarding the newly identified violations and updates the report of contact with a specific reference to the licensing rule that has been violated.

(f) HHSC provides to the facility a written statement of violations from an inspection, survey, investigation, or onsite ~~[on-site]~~ visit on HHSC Form 3724, Statement of Licensing Violations and Plan of Correction, within 10 days after the final exit conference. The statement of violations includes a clear and concise summary in nontechnical language of each licensing rule violation. The statement of violations does not include names of residents or staff, statements that identify a resident, or other prohibited information.

(g) A facility must submit an acceptable plan of correction to the HHSC regional director for the HHSC surveyor within 10 working days after receiving the statement of violations described in subsection (f) of this section. An acceptable plan of correction must address:

(1) how corrective action will be accomplished for a resident affected by a violation of a licensing rule;

(2) how the facility will identify other residents who may be affected by the violation of the licensing rule;

(3) how the corrective action the facility implements will ensure the violation does not reoccur;

(4) how the facility will monitor its corrective action to ensure the violation is being corrected and will not reoccur; and

(5) dates when corrective action will be completed.

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SUBCHAPTER H ENFORCEMENT
DIVISION 1 GENERAL INFORMATION

§553.351. Enforcement General Information.

(a) HHSC may take enforcement action when a facility is in violation of:

- (1) the sections of this chapter;
- (2) the Texas Health and Safety Code, Chapter 247;
- (3) an order adopted under Texas Health and Safety Code, Chapter 247; or
- (4) a license issued under Texas Health and Safety Code, Chapter 247.

(b) HHSC may take the following enforcement actions:

- (1) suspend a license;
- (2) order immediate closing of all or part of the facility;
- (3) revoke a license;
- (4) refer the violation to the Office of the Attorney General for involuntary appointment of a trustee, injunction, or for the assessment of civil penalties; or
- (5) assess administrative penalties.

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~~§553.351. When may HHSC take an enforcement action?~~

~~HHSC may take enforcement action when a facility is in violation of:~~

- ~~—(1) the sections of this chapter;~~
- ~~—(2) the Texas Health and Safety Code, Chapter 247;~~
- ~~—(3) an order adopted under Texas Health and Safety Code, Chapter 247; or~~
- ~~—(4) a license issued under Texas Health and Safety Code, Chapter 247.]~~

~~§553.353. What enforcement actions may HHSC take?~~

~~HHSC may:~~

- ~~—(1) suspend a license;~~
- ~~—(2) order immediate closing of all or part of the facility;~~
- ~~—(3) revoke a license;~~
- ~~—(4) refer the violation to the Office of the Attorney General for involuntary appointment of a trustee, injunction, or for the assessment of civil penalties; or~~
- ~~—(5) assess administrative penalties.]~~

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SUBCHAPTER H ENFORCEMENT
DIVISION 2 ACTIONS AGAINST A LICENSE: SUSPENSION

§553.401. Suspension Actions Against a License.

(a) HHSC may suspend a facility's license when the applicant, license holder, or a controlling person violates:

(1) Texas Health and Safety Code, Chapter 247; a section, standard, or order adopted under Texas Health and Safety Code, Chapter 247; or term of a license issued under Chapter 247 in a repeated or substantial manner; or

(2) §553.751 of this subchapter (relating to Administrative Penalties).

(b) HHSC provides written notice of a license suspension and the opportunity for a hearing to the applicant, license holder, or a controlling person.

(c) HHSC may suspend a license at the same time another enforcement action is occurring.

(d) HHSC notifies a license holder of a proposed suspension by certified and first-class mail.

(e) HHSC provides the license holder with the facts or conduct alleged to warrant the suspension.

(f) The license holder has an Opportunity to Show Compliance (OSC) with all requirements for keeping the license before HHSC begins proceedings to suspend a license.

(g) A license holder must send a written request for an OSC to HHSC Regulatory Enforcement.

(h) A request for an OSC must be postmarked within 10 calendar days after the date of HHSC notice letter and must be received in the office of HHSC Regulatory Enforcement within 10 calendar days after the postmark.

(i) The request to show compliance must contain specific documentation showing how the facts or conduct that support the proposed suspension are incorrect.

(j) HHSC limits its review to documentation submitted by the license holder and information used by HHSC as the basis for its proposed action. The review is not conducted as an adversarial hearing.

(k) HHSC gives the license holder a written affirmation or reversal of the proposed action.

(l) HHSC notifies the facility license holder by certified and first-class mail of its final decision to suspend a license.

- (m) The facility may request a formal hearing.
- (n) The license holder has 15 calendar days from receipt of the certified and first-class mail notice to request a formal hearing.
- (o) If a license holder does not appeal, the suspension takes effect after the deadline for an appeal passes.
- (p) If a license holder appeals, the status of the license remains in effect until after the appeal is complete.
- (q) A facility may continue to operate as long as the suspension is under appeal.
- (r) The suspension remains in effect until HHSC determines that the reason for the suspension no longer exists, but no longer than the license expiration date.
- (s) HHSC conducts an onsite inspection to decide whether to remove the suspension.
- (t) The license must be returned to HHSC during a license suspension.

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PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 553 LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES
SUBCHAPTER H ENFORCEMENT
DIVISION 2 ACTIONS AGAINST A LICENSE: SUSPENSION

~~[§553.401. When may HHSC suspend a facility's license?~~

~~HHSC may suspend a facility's license when the applicant, license holder, or a controlling person violates:~~

~~—(1) the Texas Health and Safety Code, Chapter 247; a section, standard or order adopted under Texas Health and Safety Code, Chapter 247; or a license issued under Chapter 247 in a repeated or substantial manner; or~~

~~—(2) §553.751(a)(2) —(9) of this subchapter (relating to Administrative Penalties).]~~

~~[§553.403. Does HHSC provide notice of a license suspension and the opportunity for a hearing to the applicant, license holder, or a controlling person?~~

~~Yes.]~~

~~[§553.405. May HHSC suspend a license at the same time another enforcement action is occurring?~~

~~Yes.]~~

~~[§553.407. How does HHSC notify a license holder of a proposed suspension?~~

~~HHSC notifies a license holder by certified mail.]~~

~~[§553.409. What information does HHSC provide the license holder concerning a proposed suspension?~~

~~HHSC provides the license holder with the facts or conduct alleged to warrant the suspension.]~~

~~[§553.411. Does the license holder have an opportunity to show compliance with all requirements for keeping the license before HHSC begins proceedings to suspend a license?~~

~~Yes.]~~

~~[§553.413. How does a license holder request an opportunity to show compliance?~~

~~A license holder must send a written request for an opportunity to show compliance to the Associate Commissioner of Long-term Care Regulation.]~~

~~[§553.415. How much time does a license holder have to request an opportunity to show compliance?~~

~~A request for an opportunity to show compliance must be postmarked within 10~~

~~calendar days of the date of HHSC notice and must be received in the office of the Associate Commissioner of Long-term Care Regulation within 10 calendar days after the postmark.]~~

~~[§553.417. What must the request for an opportunity to show compliance contain?~~

~~The request must contain specific documentation showing how the facts or conduct that support the proposed suspension are incorrect.]~~

~~[§553.419. How does HHSC conduct the opportunity to show compliance?~~

~~HHSC review is limited to documentation submitted by the license holder and information used by HHSC as the basis for its proposed action. The review is not conducted as an adversary hearing.]~~

~~[§553.421. Does HHSC give the license holder a written affirmation or reversal of the proposed action?~~

~~Yes.]~~

~~[§553.423. How does HHSC notify a license holder of its final decision to suspend a license?~~

~~HHSC notifies the facility by certified mail.]~~

~~[§553.425. May the facility request a formal hearing?~~

~~Yes.]~~

~~[§553.427. How long does a license holder have to request a formal hearing?~~

~~The license holder has 15 calendar days from receipt of the certified mail notice to request a hearing.]~~

~~[§553.429. If a license holder does not appeal, when does the suspension take effect?~~

~~The suspension takes effect after the deadline for an appeal passes.]~~

~~[§553.431. If a license holder appeals, when does the suspension take effect?~~

~~The status of the license remains in effect until after the appeal is complete.]~~

~~[§553.433. May a facility operate during a suspension?~~

~~A facility may continue to operate as long as the suspension is under appeal.]~~

~~[§553.435. How long is the suspension?~~

~~The suspension remains in effect until HHSC determines that the reason for the suspension no longer exists, but no longer than the license expiration date.]~~

~~[§553.437. How does HHSC decide to remove the suspension?~~

~~HHSC conducts an on-site inspection.]~~

~~[\$553.439. Must the license be returned to HHSC during a license suspension?~~

~~Yes.]~~

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PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 553 LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES
SUBCHAPTER H ENFORCEMENT
DIVISION 3 ACTIONS AGAINST A LICENSE: REVOCATION

§553.451. Revocation Actions Against a License.

(a) HHSC may revoke a license when the applicant, license holder, or a controlling person:

(1) violates section §553.751 of this subchapter (relating to Administrative Penalties);

(2) violates Texas Health and Safety Code, Chapter 247; a section, standard or order adopted under Texas Health and Safety Code, Chapter 247; or term of a license issued under Texas Health and Safety Code, Chapter 247 in a repeated or substantial manner;

(3) submits false statements on a license application;

(4) submits false statements on license application attachments;

(5) submits misleading statements on a license application;

(6) submits misleading statements on license application attachments;

(7) uses subterfuge or other evasive means to obtain a license;

(8) conceals a material fact on a license application that would have been the basis for denying a license under §553.17 of this chapter (relating to Criteria for Licensing);

(9) fails to disclose information, as required by Subchapter B of this chapter (relating to Licensing) that would have been the basis to deny a license in §553.17 of this chapter; or

(10) violates Texas Health and Safety Code §247.021.

(b) HHSC provides written notice of a license revocation and opportunity for a hearing to the applicant, license holder, or controlling person.

(c) HHSC may take more than one enforcement action at a time against a license.

(d) HHSC notifies a license holder by certified and first-class mail of a proposed revocation.

(e) HHSC provides the license holder with the facts or conduct alleged to warrant the proposed revocation.

(f) The license holder has an Opportunity to Show Compliance (OSC) with all requirements for keeping the license before HHSC begins proceedings to revoke a license.

- (g) A license holder must send a written request for an OSC to HHSC Regulatory Enforcement.
- (h) A request for an OSC must be postmarked within 10 calendar days after the date of the HHSC notice letter and must be received in the office of HHSC Regulatory Enforcement within 10 calendar days after the postmark.
- (i) A request for the OSC must contain specific documentation showing how the facts or conduct that support the proposed revocation are incorrect.
- (j) HHSC conducts its review of limited documentation submitted by the license holder and information used by HHSC as the basis for its proposed action. The review is not conducted as an adversarial hearing.
- (k) HHSC gives the license holder a written affirmation or reversal of the proposed action.
- (l) The license holder has an opportunity for a formal hearing.
- (m) The license holder has 15 calendar days from receipt of the certified and first-class mail notice to request a hearing.
- (n) The revocation takes effect if the license holder does not appeal after the deadline for an appeal passes.
- (o) The revocation does not take effect until the appeal is complete.
- (p) A facility may continue to operate as long as the revocation is under appeal.
- (q) If revoked, the license must be returned to HHSC.

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CHAPTER 553 LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES
SUBCHAPTER H ENFORCEMENT
DIVISION 3 ACTIONS AGAINST A LICENSE: REVOCATION

~~[§553.451. When may HHSC revoke a license?~~

~~HHSC may revoke a license when the applicant, license holder, or a controlling person:~~

~~—(1) violates section §553.751(a)(2) — (9) of this subchapter (relating to Administrative penalties);~~

~~—(2) violates the Texas Health and Safety Code, Chapter 247; a section, standard or order adopted under Texas Health and Safety Code, Chapter 247; or a license issued under Texas Health and Safety Code, Chapter 247 in a repeated or substantial manner;~~

~~—(3) submits false statements on a license application;~~

~~—(4) submits false statements on license application attachments;~~

~~—(5) submits misleading statements on a license application;~~

~~—(6) submits misleading statements on license application attachments;~~

~~—(7) uses subterfuge or other evasive means to obtain a license;~~

~~—(8) conceals a material fact on a license application that would have been the basis for denying a license under §553.17 of this chapter (relating to Criteria for Licensing);~~

~~—(9) fails to disclose information, as required by Subchapter B of this chapter (relating to Licensing) that would have been the basis to deny a license under §553.17 of this chapter; or~~

~~—(10) violates the Texas Health and Safety Code §247.021.]~~

~~[§553.453. Does HHSC provide notice of a license revocation and opportunity for a hearing to the applicant, license holder, or controlling person?~~

~~Yes.]~~

~~[§553.455. May HHSC take more than one enforcement action at a time against a license?~~

~~Yes.]~~

~~[§553.457. How does HHSC notify a license holder of a proposed revocation?~~

~~HHSC notifies a license holder by certified mail.]~~

~~[§553.459. What information does HHSC provide the license holder concerning a proposed revocation?~~

~~HHSC provides the license holder with the facts or conduct alleged to warrant the revocation.]~~

~~[§553.461. Does the license holder have an opportunity to show compliance with all requirements for keeping the license before HHSC begins proceedings to revoke a license?~~

~~Yes.]~~

~~[§553.463. How does a license holder request an opportunity to show compliance?~~

~~A license holder must send a written request for an opportunity to show compliance to the Associate Commissioner of Long-term Care Regulation.]~~

~~[§553.465. How much time does a license holder have to request an opportunity to show compliance?~~

~~A request for an opportunity to show compliance must be postmarked within 10 calendar days of the date of HHSC notice and must be received in the office of the Associate Commissioner of Long-term Care Regulation within 10 calendar days of the postmark.]~~

~~[§553.467. What must the request for the opportunity to show compliance contain?~~

~~The request must contain specific documentation showing how the facts or conduct that support the proposed revocation are incorrect.]~~

~~[§553.469. How does HHSC conduct the opportunity to show compliance?~~

~~HHSC review is limited to documentation submitted by the license holder and information used by HHSC as the basis for its proposed action. The review is not conducted as an adversary hearing.]~~

~~[§553.471. Does HHSC give the license holder a written affirmation or reversal of the proposed action?~~

~~Yes.]~~

~~[§553.473. Does the license holder have an opportunity for a formal hearing?~~

~~Yes.]~~

~~[§553.475. How long does a license holder have to request a formal hearing?~~

~~The license holder has 15 calendar days from receipt of the certified mail notice to request a hearing.]~~

~~[§553.477. When does the revocation take effect if the license holder does not appeal?~~

~~The revocation takes effect after the deadline for an appeal passes.]~~

~~[§553.479. When does the revocation take effect if the license holder appeals the revocation?~~

~~The status of the license remains in effect until after the appeal is complete.]~~

~~[§553.481. May a facility operate during a revocation?~~

~~A facility may continue to operate, as long as the revocation is under appeal.]~~

~~[§553.483. What happens to a license if it is revoked?~~

~~If revoked, the license must be returned to HHSC.]~~

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PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 553 LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES
SUBCHAPTER H ENFORCEMENT
DIVISION 4 ACTIONS AGAINST A LICENSE: TEMPORARY RESTRAINING
 ORDERS AND INJUNCTIONS

§553.501. Temporary Restraining Order and Injunctions Against a License.

(a) HHSC refers a facility to the Office of the Attorney General or local prosecuting authority for a temporary restraining order or an injunction when:

(1) a violation creates an immediate threat or threat to the health and safety of residents;

(2) a facility is operating without a license; or

(3) HHSC is denied entry to a facility that is alleged to be operating without a license.

(b) HHSC will refer a facility that is operating without a license to the:

(1) district attorney;

(2) county attorney;

(3) city attorney; or

(4) Attorney General.

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SUBCHAPTER H ENFORCEMENT
DIVISION 4 ACTIONS AGAINST A LICENSE: TEMPORARY RESTRAINING
ORDERS AND INJUNCTIONS

~~§553.501. Why does HHSC refer a facility to the Office of the Attorney General or local prosecuting authority for a temporary restraining order or an injunction?~~

~~HHSC refers a facility to the Office of the Attorney General or local prosecuting authority for a temporary restraining order or an injunction when:~~

~~—(1) a violation creates an immediate threat or threat to the health and safety of residents;~~

~~—(2) a facility is operating without a license; or~~

~~—(3) HHSC is denied entry to a facility that is alleged to be operating without a license.]~~

~~§553.503. To whom does HHSC refer a facility that is operating without a license?~~

~~HHSC refers a facility that is operating without a license to the:~~

~~—(1) district attorney;~~

~~—(2) county attorney;~~

~~—(3) city attorney; or~~

~~—(4) Attorney General.]~~

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SUBCHAPTER H ENFORCEMENT
DIVISION 5 ACTIONS AGAINST A LICENSE: EMERGENCY LICENSE
SUSPENSION AND CLOSING ORDER

§553.551. Emergency License Suspension and Closing Order Actions Against a License.

(a) HHSC may suspend a license or order an immediate closing of all or part of a facility when:

(1) the facility is operating in violation of the licensure rules; and

(2) the violation creates an immediate threat to the health and safety of a resident.

(b) HHSC will notify a facility of a license suspension or immediate closing of all or part of a facility by a notice hand-delivered to a facility staff member.

(c) An order suspending a license or closing all or part of a facility is effective immediately upon receipt of the hand-delivered written notice or on a later date specified in the order.

(d) An order suspending a license or closing all or part of a facility is valid for 10 calendar days after the effective date of the order.

(e) A license holder may request a hearing.

(f) License holders can find information about administrative hearings in Texas Administrative Code, Title 1, Chapter 357, Subchapter I (relating to Hearings Under the Administrative Procedure Act); Texas Government Code, Chapter 2001; and 1 TAC Chapter 155 (relating to Rules of Procedure).

(g) A request for an administrative hearing does not suspend the effectiveness of the order.

(h) A resident's rights or freedom of choice is not affected during an emergency relocation.

(i) If all or part of a facility is closed, HHSC notifies:

(1) the local health department director;

(2) the city or county health authority; and

(3) representatives of the appropriate state agencies.

(j) If all or part of the facility is closed, a facility must notify each resident and, as applicable, his or her:

(1) guardian or legally authorized representative; and

(2) attending physician.

(k) The resident or resident's legally authorized representative, guardian, or responsible party may designate a preference for a specific facility or for other arrangements regarding where to relocate a resident.

(l) HHSC arranges to relocate residents to other facilities in the area.

(m) HHSC considers residents' relocation preferences.

(n) The following apply when a resident chooses a facility for relocation.

(1) The facility must be in good standing with HHSC.

(2) If the facility is certified under 42 United States Code, Chapter 7, Subchapters XVIII and XIX, it must be in good standing under its contract.

(3) The facility must be able to meet the needs of the resident.

(o) A receiving facility is allowed to temporarily exceed its licensed capacity.

(p) A receiving facility may be allowed to temporarily exceed its licensed capacity to prevent substantial transportation of a resident.

(q) A receiving facility must ensure that acceptance of a resident under a temporary waiver:

(1) does not compromise the health and safety of residents; and

(2) can be accommodated by facility attendants and dietary services staff.

(r) A facility may have a temporary waiver until residents can be transferred to a permanent location.

(s) HHSC may monitor a facility with a temporary waiver to ensure compliance with applicable rules.

(t) The following reports, records, and supplies must be inventoried by the closing facility and sent to the receiving institution for each transferred resident:

(1) a copy of the current physician's orders for:

(A) medication;

(B) treatment;

(C) diet; and

(D) special services required;

(2) personal information, such as name and address of a resident's guardian, legally authorized representative, or responsible party;

(3) the name and phone number of the resident's attending physician;

- (4) Medicare and Medicaid identification number, if applicable;
- (5) Social Security number;
- (6) other identification information as deemed necessary and available;
- (7) a copy of the resident's current evaluation and service plan;
- (8) all medications dispensed in the resident's name that:
 - (A) have current physician's orders;
 - (B) have not passed the expiration date or been discontinued by physician orders; and
 - (C) the resident takes on a regular or as needed basis;
- (9) the resident's personal belongings, clothing, and toilet articles; and
- (10) resident trust fund accounts maintained by the closing facility.
- (u) A relocated resident has the first right to return to the closed facility if it reopens within 90 calendar days.
- (v) A relocated resident may choose to:
 - (1) return to the reopened facility;
 - (2) remain in the receiving facility if that facility agrees to admit the resident; or
 - (3) choose other accommodations.
- (w) A relocated resident who returns to the facility must be treated as a new admission, and all procedures regarding new admissions apply.

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SUBCHAPTER H ENFORCEMENT
DIVISION 5 ACTIONS AGAINST A LICENSE: EMERGENCY LICENSE
SUSPENSION AND CLOSING ORDER

~~§553.551. When may HHSC suspend a license or order an immediate closing of all or part of a facility?~~

~~HHSC may suspend a license or order an immediate closing of all or part of a facility when:~~

~~—(1) the facility is operating in violation of the licensure rules; and~~

~~—(2) the violation creates an immediate threat to the health and safety of a resident.]~~

~~§553.553. How does HHSC notify a facility of a license suspension or immediate closing of all or part of a facility?~~

~~A notice is hand delivered to a facility staff member.]~~

~~§553.555. When does an order suspending a license or closing all or part of a facility go into effect?~~

~~The order goes into effect immediately upon receipt of the hand delivered written notice or on a later date specified in the order.]~~

~~§553.557. How long is an order suspending a license or closing all or part of a facility valid?~~

~~An order is valid for 10 calendar days after the effective date of the order.]~~

~~§553.559. May a license holder request a hearing?~~

~~Yes.]~~

~~§553.561. Where can a license holder find information about administrative hearings?~~

~~Information about administrative hearings is located in 1 TAC Chapter 357, Subchapter I (relating to Hearings Under the Administrative Procedure Act), Texas Government Code, Chapter 2001, and 1 TAC Chapter 155 (relating to Rules of Procedure).]~~

~~§553.563. Does a request for an administrative hearing suspend the effectiveness of the order?~~

~~No.]~~

~~§553.565. Does anything happen to a resident's rights or freedom of choice during an emergency relocation?~~

~~No.]~~

~~[§553.567. Who does HHSC notify if all or part of a facility is closed?~~

~~If all or part of a facility is closed, HHSC notifies:~~

- ~~—(1) the local health department director;~~
- ~~—(2) the city or county health authority; and~~
- ~~—(3) representatives of the appropriate state agencies.]~~

~~[§553.569. Who must a facility notify if all or part of the facility is closed?~~

~~A facility must notify each resident's:~~

- ~~—(1) guardian or responsible party; and~~
- ~~—(2) attending physician.]~~

~~[§553.571. Who decides where to relocate a resident?~~

~~The resident, the resident's guardian, or the resident's responsible person may designate a preference for a specific facility or for other arrangements.]~~

~~[§553.573. Who arranges the relocation?~~

~~HHSC arranges to relocate residents to other facilities in the area.]~~

~~[§553.575. Is a resident's preference considered?~~

~~Yes.]~~

~~[§553.577. What requirements must the facility a resident chooses for relocation meet?~~

~~The following apply when a resident chooses a facility for relocation:~~

- ~~—(1) The facility must be in good standing with HHSC.~~
- ~~—(2) If the facility is certified under 42 United States Code, Chapter 7, Subchapters XVIII and XIX, it must be in good standing under its contract.~~
- ~~—(3) The facility must be able to meet the needs of the resident.]~~

~~[§553.579. Is a receiving facility allowed to temporarily exceed its licensed capacity?~~

~~Yes.]~~

~~[§553.581. Under what conditions is a receiving facility allowed to temporarily exceed its licensed capacity?~~

~~HHSC may grant a waiver to a receiving facility to temporarily exceed its licensed~~

~~capacity to prevent substantial transportation of a resident.]~~

~~[§553.583. What requirements must a facility meet to obtain a temporary waiver?~~

~~To be eligible for a temporary waiver to exceed its licensed capacity, a facility must:~~

~~—(1) not compromise the health and safety of residents; and~~

~~—(2) meet the increased demands for direct care personnel and dietary services.]~~

~~[§553.585. How long can a facility have a temporary waiver?~~

~~A facility may have a temporary waiver until residents can be transferred to a permanent location.]~~

~~[§553.587. Does HHSC monitor a facility with a temporary waiver?~~

~~Yes.]~~

~~[§553.589. What records, reports, and supplies are sent to the receiving facility for transferred residents?~~

~~The following reports, records, and supplies must be sent to the receiving institution for each transferred resident:—~~

~~—(1) a copy of the current physician's orders for:—~~

~~—(A) medication;—~~

~~—(B) treatment;—~~

~~—(C) diet; and—~~

~~—(D) special services required;—~~

~~—(2) personal information, such as name and address of next of kin, guardian, or responsible party;—~~

~~—(3) attending physician;—~~

~~—(4) Medicare and Medicaid identification number, if applicable;—~~

~~—(5) social security number;—~~

~~—(6) other identification information as deemed necessary and available;—~~

~~—(7) a copy of the resident's current comprehensive assessment and service plan;—~~

~~—(8) all medications dispensed in the resident's name that have current physician's orders. Medications must be inventoried and transferred with the resident. Medications past expiration date or discontinued by physician order must be inventoried for disposition in accordance with state law. Only current prescription medications taken on a regular or as-needed basis may be transferred with the resident;—~~

~~—(9) the resident's personal belongings, clothing, and toilet articles. The closing facility must make an inventory of personal property and valuables; and~~

~~—(10) resident trust fund accounts maintained by the closing facility. All items must be properly inventoried, and receipts obtained for audit purposes by the appropriate state agency.]~~

~~[§553.591. May a resident return to the closed facility if it reopens within 90 calendar days?~~

~~Yes.]~~

~~[§553.593. Do the relocated residents have any special admission rights at the closed facility?~~

~~If the closed facility is allowed to reopen within 90 calendar days, the relocated residents have the first right to return to the facility.]~~

~~[§553.595. What options does a relocated resident have?~~

~~Relocated residents may choose to:~~

~~—(1) return to the reopened facility;~~

~~—(2) stay in the receiving facility, if the facility is not exceeding its licensed capacity; or~~

~~—(3) choose other accommodations.]~~

~~[§553.597. Are relocated residents who return to the facility considered new admissions?~~

~~Yes. Any relocated resident who returns to the facility must be treated as a new admission. All procedures regarding new admissions apply.]~~

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SUBCHAPTER H ENFORCEMENT
DIVISION 6 ACTIONS AGAINST A LICENSE: CIVIL PENALTIES

§553.601. Civil Penalties.

(a) HHSC may refer a facility to the Office of the Attorney General for assessment of civil penalties for a violation that threatens the health and safety of a resident.

(b) A civil penalty of \$1,000 to \$10,000 per day may be assessed for operating a facility without a license.

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DIVISION 6 ACTIONS AGAINST A LICENSE: CIVIL PENALTIES

~~[\$553.601. When may HHSC refer a facility to the Office of the Attorney General for assessment of civil penalties?~~

~~HHSC may refer a facility for a violation that threatens the health and safety of a resident.]~~

~~[\$553.603. What is the amount of the civil penalty that can be assessed for operating without a license?~~

~~A civil penalty of \$1,000 to \$10,000 per day may be assessed for operating without a license.]~~

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PART 1	HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 553	LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES
SUBCHAPTER H	ENFORCEMENT
DIVISION 7	TRUSTEES: INVOLUNTARY APPOINTMENT OF A TRUSTEE

§553.651. Involuntary Appointment of a Trustee.

(a) HHSC may petition a court for the involuntary appointment of a trustee to operate a facility when one or more of the following conditions exist:

(1) the facility is operating without a license;

(2) the facility's license has been suspended or revoked;

(3) an imminent threat to the health and safety of the residents exists and license suspension or revocation procedures are pending against the facility;

(4) an emergency exists that presents an immediate threat to the health and safety of the residents; or

(5) the facility is closing, whether voluntarily or through an emergency closure order, and arrangements for relocation of the residents to other licensed institutions have not been made before closure.

(b) HHSC may disburse emergency assistance funds when a court order is given.

(c) A facility will reimburse HHSC for emergency assistance funds.

(d) Reimbursement for emergency assistance funds is due not later than one year after the date the trustee received the funds.

(e) The owner of the facility at the time the trustee was appointed is responsible for reimbursement.

(f) If a facility does not reimburse emergency assistance funds to HHSC in one year, HHSC refers the license holder to the Office of the Attorney General. HHSC also may deny a Medicaid provider contract.

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CHAPTER 553 LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES
SUBCHAPTER H ENFORCEMENT
DIVISION 7 TRUSTEES: INVOLUNTARY APPOINTMENT OF A TRUSTEE

~~[§553.651. When may HHSC petition a court for the involuntary appointment of a trustee to operate a facility?~~

~~HHSC may petition a court for the involuntary appointment of a trustee to operate a facility when one or more of the following conditions exist:~~

~~—(1) the facility is operating without a license;~~

~~—(2) the facility's license has been suspended or revoked;~~

~~—(3) an imminent threat to the health and safety of the residents exists, and license suspension or revocation procedures are pending against the facility;~~

~~—(4) an emergency exists that presents an immediate threat to the health and safety of the residents; or~~

~~—(5) the facility is closing, whether voluntarily or through an emergency closure order, and arrangements for relocation of the residents to other licensed institutions have not been made before closure.]~~

~~[§553.653. When may HHSC disburse emergency assistance funds?~~

~~HHSC may disburse emergency assistance funds when a court order is given.]~~

~~[§553.655. Must a facility reimburse HHSC for emergency assistance funds?~~

~~Yes.]~~

~~[§553.657. When is reimbursement for emergency assistance funds due to HHSC?~~

~~Reimbursement is due not later than one year after the date the trustee received the funds.]~~

~~[§553.659. Who is responsible for reimbursement?~~

~~The owner of the facility at the time the trustee was appointed is responsible for reimbursement.]~~

~~[§553.661. What happens if a facility does not reimburse HHSC in one year?~~

~~A license holder is referred to the Office of the Attorney General. HHSC also may decide the facility is not eligible for a Medicaid provider contract.]~~

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SUBCHAPTER H ENFORCEMENT
DIVISION 8 TRUSTEES: APPOINTMENT OF A TRUSTEE BY AGREEMENT

§553.701. Appointment of a Trustee by Agreement.

(a) A facility may request the appointment of a trustee to assume operation of a facility.

(b) A person holding a controlling interest in a facility may request that HHSC assume the operation of the facility through the appointment of a trustee.

(c) A trustee agreement must:

(1) specify all terms and conditions of the trustee's appointment and authority; and

(2) preserve all legal rights of the residents.

(d) An agreement for a trustee terminates at the time specified in the agreement or upon receipt of notice of intent to terminate sent by HHSC or by the person holding a controlling interest in the facility.

(e) If the controlling person wants to terminate the agreement but HHSC determines termination of the agreement is not in the best interest of the residents, HHSC may petition a court for an involuntary appointment of a trustee under the terms of §553.651 of this subchapter (relating to Involuntary Appointment of a Trustee).

(f) When HHSC appoints a trustee, the facility is required to pay the assessed the civil money penalties.

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PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 553 LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES
SUBCHAPTER H ENFORCEMENT
DIVISION 9 ADMINISTRATIVE PENALTIES

§553.751. Administrative Penalties.

(a) Assessment of an administrative penalty. HHSC may assess an administrative penalty if a license holder:

(1) violates:

(A) Texas Health and Safety Code, Chapter 247;

(B) a rule, standard, or order adopted under Texas Health and Safety Code, Chapter 247; or

(C) a term of a license issued under Texas Health and Safety Code, Chapter 247;

(2) makes a false statement of material fact that the license holder knows or should know is false:

(A) on an application for issuance or renewal of a license;

(B) in an attachment to the application; or

(C) with respect to a matter under investigation by HHSC;

(3) refuses to allow an HHSC representative to inspect:

(A) a book, record, or file that a facility must maintain; or

(B) any portion of the premises of a facility;

(4) willfully interferes with the work of, or retaliates against, an HHSC representative or the enforcement of this chapter;

(5) willfully interferes with, or retaliates against, an HHSC representative preserving evidence of a violation of Texas Health and Safety Code, Chapter 247; a rule, standard, or order adopted under Texas Health and Safety Code, Chapter 247; or a term of a license issued under Texas Health and Safety Code, Chapter 247;

(6) fails to pay an administrative penalty not later than the 30th calendar day after the penalty assessment becomes final;

(7) fails to notify HHSC of a change of ownership before the effective date of the change of ownership;

(8) willfully interferes with the State Ombudsman, a certified ombudsman, or an ombudsman intern performing the functions of the Ombudsman Program as described in Chapter 88 of this title (relating to State Long-Term Care Ombudsman

Program); or

(9) retaliates against the State Ombudsman, a certified ombudsman, or an ombudsman intern:

(A) with respect to a resident, employee of a facility, or other person filing a complaint with, providing information to, or otherwise cooperating with the State Ombudsman, a certified ombudsman, or an ombudsman intern; or

(B) for performing the functions of the Ombudsman Program as described in Chapter 88 of this title.

(b) Criteria for assessing an administrative penalty. HHSC considers the following in determining the amount of an administrative penalty:

(1) the gradations of penalties established in subsection (d) of this section;

(2) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the situation, and the hazard or potential hazard created by the situation to the health or safety of the public;

(3) the history of previous violations;

(4) deterrence of future violations;

(5) the license holder's efforts to correct the violation;

(6) the size of the facility and of the business entity that owns the facility; and

(7) any other matter that justice may require.

(c) Late payment of an administrative penalty. A license holder must pay an administrative penalty within 30 calendar days after the penalty assessment becomes final. If a license holder fails to timely pay the administrative penalty, HHSC may assess an administrative penalty under subsection (a)(6) of this section, which is in addition to the penalty that was previously assessed and not timely paid.

(d) Administrative penalty schedule. HHSC uses the schedule of appropriate and graduated administrative penalties in this subsection to determine which violations warrant an administrative penalty.

Figure: 26 TAC §553.751(d)

(e) Administrative penalty assessed against a resident. HHSC does not assess an administrative penalty against a resident, unless the resident is also an employee of the facility or a controlling person.

(f) Proposal of administrative penalties.

(1) HHSC issues a preliminary report stating the facts on which HHSC concludes that a violation has occurred after HHSC has:

(A) examined the possible violation and facts surrounding the possible violation; and

(B) concluded that a violation has occurred.

(2) HHSC may recommend in the preliminary report the assessment of an administrative penalty for each violation and the amount of the administrative penalty.

(3) HHSC provides a written notice of the preliminary report to the license holder not later than 10 calendar days after the date on which the preliminary report is issued. The written notice includes:

(A) a brief summary of the violation;

(B) the amount of the recommended administrative penalty;

(C) a statement of whether the violation is subject to correction in accordance with subsection (g) of this section and, if the violation is subject to correction, a statement of:

(i) the date on which the license holder must file with HHSC a plan of correction for approval by HHSC; and

(ii) the date on which the license holder must complete the plan of correction to avoid assessment of the administrative penalty; and

(D) a statement that the license holder has a right to an administrative hearing on the occurrence of the violation, the amount of the penalty, or both.

(4) Not later than 20 calendar days after the date on which a license holder receives a written notice of the preliminary report, the license holder may:

(A) give HHSC written consent to the preliminary report, including the recommended administrative penalty; or

(B) make a written request to HHSC for an administrative hearing.

(5) If a violation is subject to correction under subsection (g) of this section, the license holder must submit a plan of correction to HHSC for approval not later than 10 calendar days after the date on which the license holder receives the written notice described in paragraph (3) of this subsection.

(6) If a violation is subject to correction under subsection (g) of this section, and after the license holder reports to HHSC that the violation has been corrected, HHSC inspects the correction or takes any other step necessary to confirm the correction and notifies the facility that:

(A) the correction is satisfactory and HHSC is not assessing an administrative penalty; or

(B) the correction is not satisfactory, and a penalty is recommended.

(7) Not later than 20 calendar days after the date on which a license holder receives a notice that the correction is not satisfactory and that a penalty is recommended under paragraph (6)(B) of this subsection, the license holder may:

(A) give HHSC written consent to HHSC report, including the recommended administrative penalty; or

(B) make a written request to HHSC for an administrative hearing.

(8) If a license holder consents to the recommended administrative penalty or does not timely respond to a notice sent under paragraph (3) of this subsection (written notice of the preliminary report) or paragraph (6)(B) of this subsection (notice that the correction is not satisfactory and recommendation of a penalty):

(A) HHSC assesses the recommended administrative penalty;

(B) HHSC gives written notice of the decision to the license holder; and

(C) the license holder must pay the penalty not later than 30 calendar days after the written notice given in subparagraph (B) of this paragraph.

(g) Right ~~[Opportunity]~~ to correct.

(1) HHSC allows a license holder to correct a violation before assessing an administrative penalty, except a violation described in paragraph (2) of this subsection. To avoid assessment of a penalty, a license holder must correct a violation not later than 45 calendar days after the date the facility receives the written notice described in subsection (f)(3) of this section.

(2) HHSC does not allow a license holder to avoid a penalty assessment based on its correction of a violation:

(A) described by subsection (a)(2)-(9) of this section;

(B) of Texas Health and Safety Code §260A.014 or §260A.015;

(C) relating ~~[related]~~ to advance directives as described in §553.259(d) of this chapter (relating to Admission Policies and Procedures);

(D) that is the second or subsequent violation of:

(i) a right of the same resident under §553.287 ~~[§553.267]~~ of this chapter (relating to Rights);

(ii) the same right of all residents under §553.287 ~~[§553.267]~~ of this chapter; or

(iii) §553.255 of this chapter (relating to All Staff Policy for Residents with Alzheimer's Disease or a Related Disorder) that occurs before the second anniversary of the date of a previous violation of §553.255 of this chapter;

(E) that is written because of an inappropriately placed resident, except as

described in §553.261 [~~§553.259(e)~~] of this chapter (relating to Inappropriate Placement in a Type A or Type B Facility);

(F) that is a pattern of violation that results in actual harm;

(G) that is widespread in scope and results in actual harm;

(H) that is widespread in scope, constitutes a potential for more than minimal harm, and relates to:

(i) resident evaluation [~~assessment~~] as described in §553.259(b) of this chapter;

(ii) staffing, including staff training, as described in §553.253 of this chapter (relating to Employee Qualifications and Training);

(iii) medication administration as described in §553.267 [~~§553.261(a)~~] of this chapter (relating to Medications [~~Coordination of Care~~]);

(iv) infection control as described in §553.277 [~~§553.261(f)~~] of this chapter (relating to Infection Prevention and Control);

(v) restraints as described in §553.279 [~~§553.261(g)~~] of this chapter (relating to Restraints and Seclusion); or

(vi) emergency preparedness and response as described in §553.295 [~~§553.275~~] of this chapter (relating to Emergency Preparedness and Response); or

(I) is an immediate threat to the health or safety of a resident.

(3) Maintenance of violation correction.

(A) A license holder that corrects a violation must maintain the correction. If the license holder fails to maintain the correction until at least the first anniversary of the date the correction was made, HHSC may assess and collect an administrative penalty for the subsequent violation.

(B) An administrative penalty assessed under this paragraph is equal to three times the amount of the original administrative penalty that was assessed but not collected.

(C) HHSC is not required to offer the license holder a right [~~opportunity to correct~~] the subsequent violation.

(h) Hearing on an administrative penalty. If a license holder timely requests an administrative hearing as described in subsection (f)(3) or (7) of this section, the administrative hearing is held in accordance with HHSC rules at Texas Administrative Code, Title 1, [1-TAC] Chapter 357, Subchapter I (relating to Hearings under the Administrative Procedure Act).

(i) HHSC may charge interest on an administrative penalty. The interest begins the day after the date the penalty becomes due and ends on the date the penalty is

paid in accordance with Texas Health and Safety Code §247.0455(e).

(j) Amelioration of a violation.

(1) In lieu of demanding payment of an administrative penalty, the commissioner may allow a license holder to use, under HHSC supervision, any portion of the administrative penalty to ameliorate the violation or to improve services, other than administrative services, in the facility affected by the violation. Amelioration is an alternate form of payment of an administrative penalty, not an appeal, and does not remove a violation or an assessed administrative penalty from a facility's history.

(2) A license holder cannot ameliorate a violation that HHSC determines constitutes immediate jeopardy to the health or safety of a resident.

(3) HHSC offers amelioration to a license holder not later than 10 calendar days after the date a license holder receives a final notification of the recommended assessment of an administrative penalty that is sent to the license holder after an informal dispute resolution process but before an administrative hearing.

(4) A license holder to whom amelioration has been offered must:

(A) submit a plan for amelioration not later than 45 calendar days after the date the license holder receives the offer of amelioration from HHSC; and

(B) agree to waive the license holder's right to an administrative hearing if HHSC approves the plan for amelioration.

(5) A license holder's plan for amelioration must:

(A) propose changes to the management or operation of the facility that will improve services to or quality of care of residents;

(B) identify, through measurable outcomes, the ways in which and the extent to which the proposed changes will improve services to or quality of care of residents;

(C) establish clear goals to be achieved through the proposed changes;

(D) establish a timeline [~~time-line~~] for implementing the proposed changes; and

(E) identify specific actions the license holder will take to implement the proposed changes.

(6) A license holder's plan for amelioration may include proposed changes to:

(A) improve staff recruitment and retention;

(B) offer or improve dental services for residents; and

(C) improve the overall quality of life for residents.

(7) HHSC may require that an amelioration plan propose changes that would result in conditions that exceed the requirements of this chapter.

(8) HHSC approves or denies a license holder's amelioration plan not later than 45 calendar days after the date HHSC receives the plan. If HHSC approves the amelioration plan, any pending request the license holder has submitted for an administrative hearing must be withdrawn by the license holder.

(9) HHSC does not offer amelioration to a license holder:

(A) more than three times in a two-year period; or

(B) more than one time in a two-year period for the same or a similar violation.

TITLE 26 HEALTH AND HUMAN SERVICES
PART 1 HEALTH AND HUMAN SERVICES COMMISSION
CHAPTER 553 LICENSING STANDARDS FOR ASSISTED LIVING FACILITIES
SUBCHAPTER H ENFORCEMENT
DIVISION 8 TRUSTEES: APPOINTMENT OF A TRUSTEE BY AGREEMENT

~~§553.701. May a facility request the appointment of a trustee to assume operation of a facility?~~

~~Yes.]~~

~~§553.703. Who may make the request?~~

~~A person holding a controlling interest in a facility may request that HHSC assume the operation of the facility through the appointment of a trustee.]~~

~~§553.705. What are the requirements for a trustee agreement?~~

~~An agreement must:~~

~~—(1) specify all terms and conditions of the trustee's appointment and authority;~~

~~and~~

~~—(2) preserve all legal rights of the residents.]~~

~~§553.707. When does an agreement for a trustee terminate?~~

~~An agreement for a trustee terminates at a time specified in the agreement or upon receipt of notice of intent to terminate sent by HHSC or by the person holding a controlling interest in the facility.]~~

~~§553.709. What happens if the controlling person wants to terminate the agreement, but HHSC determines termination of the agreement is not in the best interest of the residents?~~

~~HHSC petitions a court for an involuntary appointment of a trustee under the terms of §553.651 of this subchapter (relating to When may HHSC petition a court for the involuntary appointment of a trustee to operate a facility?).]~~

~~§553.711. When HHSC appoints a trustee, is the facility always required to pay assessed civil money penalties?~~

~~Yes.]~~