



## Long-Term Care Regulation Provider Letter

**Number:** PL 2023-01 (Revised)

**Title:** New Regulatory Rules for Long-term Care Regulation (LTCR) Individualized Skills and Socialization Services

**Provider Types:** Day Activity Health Services (DAHS)-Individualized Skills and Socialization Providers

**Date Issued:** March 18, 2024

### 1.0 Subject and Purpose

This letter provides guidance to Day Activity Health Services (DAHS)-Individualized Skills and Socialization service providers about the Long-Term Care Regulation (LTCR) rules related to the Individualized Skills and Socialization program.

Revisions to this provider letter include **removal of temporary licensure information since HHSC will no longer be issuing temporary initial licenses for applications submitted after September 1, 2023, in addition to updates on the hold harmless period.**

### 2.0 Policy Details & Provider Responsibilities

On January 1, 2023, HHSC published rules implementing the new Individualized Skills and Socialization program for Deaf Blind with Multiple Disabilities (DBMD), Home and Community-based Services (HCS), and Texas Home Living (TxHmL) providers. Those rules are located in Title 26 of the [Texas Administrative Code, Chapter 559, Subchapter H.](#)

#### 2.1 Day Activity Health Services (DAHS)-Individualized Skills and Socialization License

To deliver Individualized Skills and Socialization services, providers must apply for and be issued a Day Activity Health Services (DAHS) - Individualized Skills and Socialization license by HHSC. Additionally, existing DAHS licensees who wish to add the DAHS-Individualized Skills and Socialization Services license must also comply with all current DAHS

licensure requirements, including Life Safety Code (LSC). Providers must use the [HHSC Texas Unified Licensure Information Portal \(TULIP\)](#) to apply for the DAHS-Individualized Skills and Socialization license. Providers can find more information about how to use TULIP and apply for the license using the following resource:

[TULIP Online Licensure Application System | Texas Health and Human Services](#)

### **2.1.1 Capacity**

As part of the licensure process, a DAHS-Individualized Skills and Socialization provider that provides Individualized Skills and Socialization services must declare the maximum capacity that the provider can serve. This number is determined by the provider and may be informed by building occupancy requirements, staff availability, and Medicaid program requirements for service delivery.

### **2.1.2 Off-site Individualized Skills and Socialization Only**

An Individualized Skills and Socialization provider may deliver off-site only Individualized Skills and Socialization services, but they must provide a physical location that is a designated place of business where records are kept, as part of the regulatory rules requirement and licensure application process.

### **2.1.3 Prohibited Settings**

An Individualized Skills and Socialization provider cannot be located on the grounds of, or physically adjacent to, a prohibited setting as set forth in the rules governing the HCS Program. If the applicant has not been approved by the Medicaid and CHIP Services program through the heightened scrutiny process, HHSC will refer the application for enforcement. For more information regarding Medicaid requirements for providers seeking to deliver individualized skills and socialization services, please see [Information Letter 2022-53](#).

## **2.2 Individualized Skills and Socialization Provider Requirements**

An Individualized Skills and Socialization provider must follow all applicable rules and regulations, including:

- any applicable local ordinances and codes or other state laws, such as food establishment, sanitary, or building requirements;

- Medicaid program rules that pertain to the individual participating program, such as HCS, TxHmL, and DBMD;
- any requirements established by the HHSC contract and applicable billing guidelines; and
- the LTCR Individualized Skills and Socialization regulatory requirements.

### **2.2.1 Administrator**

The Individualized Skills and Socialization provider must employ an administrator who is responsible for the oversight of Individualized Skills and Socialization services, staff training, staff supervision, and record maintenance. The administrator may oversee multiple Individualized Skills and Socialization locations. The specific job title of this employee does not have to be "administrator;" however, the provider must employ someone who serves this function and have a policy regarding the delegation of responsibility in the administrator's absence.

### **2.2.2 Background Checks**

In addition to complying with the [Texas Health and Safety Code](#) regarding initial criminal history checks prior to offering employment to any person, including potential subcontractors and volunteers, an Individualized Skills and Socialization provider must search the:

- [employee misconduct registry](#) (EMR);
- [nurse aide registry](#) (NAR);
- [medication aide registry](#) (MAR);
- [List of Excluded Individuals and Entities](#) (USLEIE) maintained by the United States Department of Health and Human Services; and
- and the [List of Excluded Individuals and Entities](#) (LEIE) maintained by HHSC Office of Inspector General.

For NAR, MAR, and EMR, these searches must be conducted every 12 months to verify continued employment eligibility. These online searches are free of charge to the provider.

### **2.2.3 Staff Training**

The Individualized Skills and Socialization provider must ensure that staff members receive initial and ongoing trainings. The trainings must

be documented, with records maintained by the provider and provided to HHSC surveyors upon request.

Required initial and ongoing trainings include, but are not limited to:

- CPR training, which may be provided by any nationally or locally recognized adult CPR course or certification program;
- first aid;
- infection control;
- an overview of the population served;
- individual health, safety, and medical needs;
- identification and reporting of abuse, neglect, or exploitation; and
- staff responsibilities under the emergency response plan.

#### **2.2.4 Medications**

When an individual receiving services cannot or chooses not to self-administer his or her medications, the provider must provide assistance with medications and the performance of related tasks if:

- a registered nurse has conducted an assessment of the assistance and related tasks and delegated such to the Individualized Skills and Socialization provider in accordance with state law and rules; or
- a physician has delegated the assistance and related tasks as a medical act to the Individualized Skills and Socialization provider under [Texas Occupations Code Chapter 157](#), as documented by the physician.

Additionally, the provider must ensure:

- the proper storage of medications (including separation of medications, locked storage areas, and medications requiring refrigeration);
- the documentation of medication regimen; and
- reporting of any unusual reactions to medication.

#### **2.2.5 On-Site and Off-Site Services**

The provider must make both on-site and off-site individualized skills and socialization services available to an individual unless the provider only offers off-site individualized skills and socialization.

On-site individualized skills and socialization:

- must be provided in a building or a portion of a building that is owned or leased by the provider; and
- cannot be provided in a prohibited setting for an individual, as set forth in the rules governing the HCS Program.

Off-site individualized skills and socialization:

- must be provided in a community setting chosen by the individual from among available community setting options;
- includes transportation necessary for the individual's participation in off-site individualized skills and socialization; and
- cannot be provided in:
  - a building in which on-site individualized skills and socialization are provided;
  - a prohibited setting for an individual, as set forth in the rules governing the HCS Program, unless:
    - provided in an event open to the public; or
    - the activity is a volunteer activity performed by an individual in such a setting; or
    - the residence of an individual or another person, unless the activity is a volunteer activity performed by an individual in the residence.

### **2.2.6 Accident, Injury, or Acute Illness**

The provider must stock and maintain first aid supplies to treat burns, cuts, and poisoning:

- On-site provider: supplies must be in a single location in the on-site location; and
- Off-site provider: supplies must be immediately available at all times during service provision.

## **2.3 Environment and Emergency Response**

The Individualized Skills and Socialization provider must develop and maintain an emergency response plan that includes the eight core functions of emergency management. Those core functions include a written plan that:

- designates an emergency preparedness coordinator who is responsible for the direction and control of the provider's response to an emergency;
- establishes how the provider will receive and monitor local news and weather updates in an emergency;
- describes how the provider will communicate with staff and others in an emergency;

- describes protocols for sheltering-in-place in an emergency;
- describes protocols for evacuating individuals to an alternate location during an emergency;
- describes how the provider will transport individuals during an emergency;
- ensures the health and medical needs of individuals are met during an emergency; and
- ensures individuals have appropriate access to resources during an emergency.

### **2.3.1 Fire Drills**

The Individualized Skills and Socialization provider performs a fire drill at least once every 90 days. The provider completes HHSC Fire Drill Report form ([4719](#)) for each fire drill and maintains the document. The provider must maintain the record and provide it to HHSC surveyors upon request.

### **2.3.2 Environment**

The Individualized Skills and Socialization provider must ensure the on-site location conforms to all applicable state laws and local ordinances pertaining to occupancy and meets the provisions and requirements concerning accessibility for individuals with disabilities.

## **2.4 Reporting Abuse, Neglect, Exploitation, or Incidents to HHSC**

### **2.4.1 Abuse, Neglect, and Exploitation**

Any Individualized Skills and Socialization provider staff who suspects or learns an individual is in a state of abuse, neglect, or exploitation must report the abuse, neglect, or exploitation to Texas Health and Human Services Commission (HHSC) Complaint and Incident Intake (CII) by either:

- calling 1-800-458-9858, or
- using the submission portal in TULIP within one hour after suspecting or learning of the alleged abuse, neglect, or exploitation.

Using TULIP is the preferred way for providers to report incidents.

### 2.4.2 Incidents

The provider must also report incidents to HHSC's Complaint and Incident Intake Section within one hour after suspecting or learning of the incident. Examples of reportable incidents include, but are not limited to:

- the death of an individual, if the death occurs while the individual is receiving services from an Individualized Skills and Socialization provider;
- misappropriation of property;
- injuries of unknown origin;
- fires; and
- situations that pose a threat to individuals receiving Individualized Skills and Socialization services, staff, or the public, which involve the need for calling the police or the local fire authority to maintain safety.

### 2.4.3 Provider Investigation Report, Form 3613-A

Within five working days after making a report to CII, the provider must ensure an investigation of the incident is conducted and send a written investigation report on [Form 3613-A](#), Provider Investigation Report (PIR), or a form containing, at a minimum, the information required by Form 3613-A, to HHSC's CII.

Each intake submitted to CII requires a separate PIR. The provider must sign the PIR and include the CII intake number from the initial report. The provider submits the completed PIR through TULIP, fax, or email.

Providers can submit their PIR to CII:

- If the incident was reported initially through TULIP, the PIR and supporting documentation can be submitted through TULIP;
- By email to [ciiprovider@hhs.texas.gov](mailto:ciiprovider@hhs.texas.gov) (Attachments must be less than 20 MB;)
- By fax, if the report with statements and other relevant documentation, is 15 pages or fewer, to 877-438-5827; or
- By mail:  
Texas Health and Human Services  
Complaint and Incident Intake  
Mail Code E249  
P.O. Box 149030  
Austin, TX 78714-9030

## **3.0 Long-Term Care Regulation (LTCR) Surveys**

### **3.1 Survey Process Overview**

The term "survey" means any on-site visit or desk-review conducted by HHSC and includes an initial licensing survey, renewal survey, change of ownership (CHOW) survey, or follow-up survey as well as any complaint surveys or investigations of abuse, neglect, and exploitation (ANE) conducted by HHSC.

A provider that has applied for a DAHS - Individualized Skills and Socialization license must meet the requirements for operation based on an on-site survey. A DAHS – Individualized Skills and Socialization provider will be issued an initial license once it demonstrates that it has met the requirements for operation based on the on-site survey.

The survey process generally consists of:

- an entrance conference,
- information gathering, and
- an exit conference.

#### **3.1.1 Entrance Conference**

During an entrance conference, the HHSC surveyor(s) will introduce themselves to the provider or designee, discuss the general reason for the survey, explain the survey process, and collect relevant information from the DAHS Individualized Skills and Socialization provider. For on-site providers, the provider or designee will take the HHSC surveyor(s) on an initial tour of the facility to ensure surveyors are familiar with the environment and has an opportunity to observe interaction between staff and individuals receiving services. For off-site only providers, HHSC will conduct the entrance conference at the designated place of business.

#### **3.1.2 Information Gathering**

During the information gathering process, HHSC surveyor(s) will conduct observations and interviews with staff and individuals receiving services. HHSC surveyors will also collect photocopies of records and other specific documentation to determine the provider's compliance with regulatory requirements and to assess the health and safety of individuals receiving services.



### **3.1.3 Exit Conference**

During an exit conference, the HHSC surveyor(s) will discuss preliminary survey findings with the provider, including whether HHSC identified any non-compliance. The preliminary findings list may contain, when applicable:

- Findings of potential non-compliance; or
- Findings of potential non-compliance that are critical in nature; or
- Findings of no violations cited when potential non-compliance is not identified.

The HHSC surveyor(s) and provider or designee sign the bottom of the preliminary findings list, and the provider may also make a copy of the signed form for their own record.

### **3.1.4 Following Exit Conference**

Once HHSC finishes the survey, HHSC gives the provider a Statement of Licensing Violations (HHSC Form 3724), which describes any area of identified non-compliance, as appropriate. If, following the initial exit conference, HHSC identifies any additional non-compliance, that additional non-compliance along with any non-compliance identified on the original preliminary findings list is sent to the provider within 10 business days following the date of the initial exit conference on the Statement of Licensing Violations (HHSC Form 3724).

## **3.2 When to Expect a Survey**

Once a DAHS – Individualized Skills and Socialization provider has submitted an application for licensure, the provider consents to entry and survey by HHSC. HHSC conducts unannounced on-site surveys to determine if the provider meets all requirements for a license. The provider must allow HHSC surveyors access to both on-site and off-site locations at reasonable times to perform a survey. HHSC surveyors will perform surveys, follow-up visits, complaint investigations, investigations of ANE, and other contact visits as required for carrying out the responsibilities of licensing. An unannounced survey provides an opportunity for HHSC to assess how the provider typically operates.

For more information about the HHSC LTCR survey process and provider requirements, please review Texas Administrative Code (TAC) Title 26,

Chapter 559, Subchapter H, Division 4: Surveys, Investigations, and Enforcement.

If a provider fails to cooperate during a survey, HHSC may take enforcement action to deny, revoke, or suspend a license.

### **3.3 Provider Requirements During a Survey**

During a survey, the provider **must**:

- Allow HHSC surveyors entrance to the premises of the Individualized Skills and Socialization provider at reasonable times in order to perform a survey necessary to issue a license or renew a license, for any complaint or incident investigation, or for any other visit type required for carrying out the responsibilities of licensing; and
- Make all its books, records, and other documents maintained by or on behalf of the Individualized Skills and Socialization provider available to HHSC upon request; and
- Provide HHSC surveyor(s) with a list of all individuals served by the Individualized Skills and Socialization provider, with the name and telephone number of their program provider.
  - The list must include the waiver program or funding source used by the individual to receive services from the individualized skills and socialization provider; and
  - The list must include any individuals not receiving Individualized Skills and Socialization services, if applicable; and
- Provide a current list of names, titles, and telephone numbers for the Individualized Skills and Socialization provider's staff that also identifies the Emergency Preparedness Coordinator (EPC); and
- Provide HHSC surveyors with relevant, factual statements, and evidence, if needed; and
- Provide HHSC surveyors with evidence of corrective action and/or compliance upon request. This information may also include a copy of Provider Investigation Report, Form 3613-A.

## **4.0 Hold Harmless Period**

On July 1, 2023, HHSC agreed to extend part of the hold harmless period related to the provision of off-site services until March 17, 2024. During this period, HHSC evaluated DAHS – Individualized Skills and Socialization providers for compliance with off-site service delivery but did not move forward with enforcement action.

The extension of the hold harmless period for DAHS - Individualized Skills and Socialization providers ends on March 17, 2024.

Beginning March 18, 2024, HHSC will survey for compliance with **all regulatory requirements**, including off-site provision of services, and move forward with applicable enforcement actions as outlined in [Title 26 Chapter 559, Subchapter H, Division 4](#). There are no changes to the regulatory requirements at this time.

## 5.0 Training for Providers

HHSC offers [web-based provider training](#) on a variety of subjects, including Individualized Skills and Socialization.

HHSC requires an Individualized Skills and Socialization provider to complete training on how to use the HHSC TULIP licensure system prior to obtaining a DAHS-Individualized Skills and Socialization license. This is a one-time initial training that the provider must complete as part of the licensure process and is independent of staff training.

### Prelicensure Training for Individualized Skills and Socialization Providers

This training was designed for prospective providers who plan to offer Individualized Skills and Socialization services. Completion of this course is required as part of the license application process. In the course, providers will learn information about the requirements to obtain a license.

### Preparing for a Survey

This optional but recommended training was designed to assist Individualized Skills and Socialization providers prepare for a survey. In this course providers will review the survey process and identify the licensure rules.

Other training courses, such as Complaint and Incident Intake training on how to efficiently submit a complete incident report to Complaint and Incident Intake, are located on the HHSC Website. Please see section 2.3 of this Provider Letter, for more information on the survey process and expectations as a licensed Individualized Skills and Socialization provider.

## 6.0 Long-term Care Regulation Regional Contacts

Individualized Skills and Socialization providers should contact their local LTCR Regional Director with any questions or concerns related to the survey process. Providers can locate the regional survey operation offices and regional director contact information on the [Long-Term Care Regulatory Regional Contact Numbers](#) page.

## 7.0 Informal Dispute Resolution

After HHSC completes a survey, HHSC sends the Individualized Skills and Socialization provider HHSC's Statement of Licensing Violations, Form 3724, based on the survey of the facility. The facility must submit an acceptable plan of correction to the LTCR Regional Director for the region in which the facility is located. If an Individualized Skills and Socialization provider disagrees with the survey findings, it may request informal dispute resolution (IDR) from HHSC. Providers can find information about the IDR process in [Provider Letter 2019-24 Informal Dispute Resolution Process](#).

## 8.0 Background/History

HHSC is required under state law to replace day habilitation services in Medicaid 1915(c) home and community-based services (HCBS) waiver programs for individuals with intellectual and developmental disabilities (IDD) with more integrated services that maximize participation and integration of individuals with IDD in the community.

On January 1<sup>st</sup>, 2023, HHSC implemented the new, more integrated service to replace day habilitation referred to as Individualized Skills and Socialization services. Providers will be licensed as DAHS-Individualized Skills and Socialization providers.

## 9.0 Provider Resources

Texas HHSC has developed the [Individualized Skills and Socialization Provider page](#), an online source of information for providers of Individualized Skills and Socialization.

The Individualized Skills and Socialization Provider page will allow providers to:

- Complete and review trainings on the Individualized Skills and Socialization service.
- Find and review provider letters and other information and releases related to Individualized Skills Socialization.
- Link to rules and other services related to Individualized Skills and Socialization.

Providers are encouraged to subscribe to receive HHS news and alerts using the HHSC ([govdelivery.com](https://govdelivery.com)) link.

[Individualized Skills and Socialization LTCR Rules](#)

[HCS Individualized Skills and Socialization Rules](#)

[TXHML Individualized Skills and Socialization Rules](#)

[DBMD Individualized Skills and Socialization Rules](#)

Training Links:

[Individualized Skills and Socialization | Texas Health and Human Services](#)

[TULIP Online Licensure Application System | Texas Health and Human Services](#)

## **10.0 Contact Information**

Email [TULIP\\_Support@hhsc.state.tx.us](mailto:TULIP_Support@hhsc.state.tx.us) with questions related to TULIP functionality or issues gaining access.

Email [LTC\\_NF\\_DAHS\\_Licensing@hhs.texas.gov](mailto:LTC_NF_DAHS_Licensing@hhs.texas.gov) with questions related to the DAHS-Individualized Skills and Socialization licensing application.

If you have any questions about this letter, please contact the Policy and Rules Section by email at [LTCRPolicy@hhs.texas.gov](mailto:LTCRPolicy@hhs.texas.gov) or call (512) 438-3161.