

## Long-Term Care Regulatory Provider Letter

<b>Number:</b> PL 2021-28 (Revised)
<b>Title:</b> Description of Upcoming Key Changes to 26 TAC Chapter 553, Licensing Standards for Assisted Living Facilities
<b>Provider Types:</b> Assisted Living Facility (ALF)
<b>Date Issued:</b> August 31, 2021

### 1.0 Subject and Purpose

This provider letter describes the key changes made to 26 TAC Chapter 553 Licensing Standards for Assisted Living Facilities, based on legislation from the 86<sup>th</sup> Legislature, Regular Session (2019) to implement House Bills (HBs) 823, 1848 and 3329. The letter also describes additional revisions based on HHSC's reorganization of Chapter 553 and the use of the Texas Uniform Licensure Information Portal (TULIP). The new rule and amendments become effective August 31, 2021.

### 2.0 Key changes to 26 TAC Chapter 553

See Sections [2.1](#), [2.2](#) and [2.3](#) for more information about the changes to Chapter 553 implementing HBs 823, 1848, and 3329 of the 86th Legislature, Regular Session (2019).

In addition, all sections in Chapter 553 have been renumbered and reorganized to group similar requirements together in specific sections that make the chapter easier to read and navigate. For example, Section 553.41 was reorganized into smaller sections comprising similar regulations, and the former Subchapter G "Miscellaneous Provisions" was deleted and its contents moved to sections appropriate to each specific topic. See [3.0 Resources](#) for a crosswalk that shows each new section and where the information in the section was previously located in the chapter. In addition, HHSC is in the process of updating and publishing ALF checklists forms 2382, 2383 and 2393. Once the updated forms are published, HHSC will revise this PL to inform ALFs that the revisions are complete.

## **2.1 Expedited Health Inspection**

HB 823 allows applicants for an assisted living facility license to request that an expedited on-site health inspection be conducted not more than 21 days after the date of the request.

## **2.2 New Requirements for Infection Prevention and Control Policies and Procedures**

HB 1848 requires new infection control policies and procedures in long-term living facilities:

- A facility's infection prevention and control policies must describe how the facility will monitor key infectious agents, including multidrug-resistant organisms.
  - Key infectious agents are bacteria, viruses, and other microorganisms that cause the most common infections and infectious diseases in assisted living facilities and are often preventable when facilities follow proper infection control policies and procedures. (Examples of key infectious agents are Staphylococcus bacteria (staph) infections, COVID-19, and influenza.)
  - Multidrug-resistant organisms are infectious agents that have developed resistance to multiple types of antibiotics. (Examples of multidrug-resistant organisms are Methicillin-resistant Staphylococcus aureus (MRSA) and "Clostridium difficile" (C. diff).
- A facility must have a policy that describes how it will make rapid influenza diagnostic tests available to facility residents who are exhibiting signs and symptoms of influenza.
  - An assisted living facility that has a current Clinical Laboratory Improvement (CLIA) certificate can administer the rapid influenza diagnostic test.
  - An assisted living facility that does not have a current CLIA certificate can arrange for the test to be administered by a third party that is authorized to administer the test, either at the assisted living facility

or at another location such as a doctor's office or pharmacy.

### **2.3 Health Maintenance Activities**

HB 3329 amended the definition of assisted living facility to allow personal care staff to perform health maintenance activities (HMAs) for a resident, without RN delegation.

- An HMA is a specific task for a specific resident that requires a higher level of skill to perform than personal care services, and that the resident could perform for themselves but for a functional disability that prevents it.
- Before a task can be designated as an HMA, an RN must conduct an assessment of the resident, the predictability of the resident's condition, and other elements as applicable and determine and document that the task qualifies as an HMA.
- Examples of HMAs include:
  - administering oral medications through a permanently placed feeding tube with irrigation;
  - administering topically applied medications;
  - administering unit dose medication by way of inhalation (MDIs) including nebulizer treatments for prophylaxis and/or maintenance;
  - routine administration of a prescribed dose of oxygen; noninvasive ventilation (NIV) such as continuous positive airway pressure (CPAP) and bi-level positive airway pressure (BiPAP) therapy;
  - the administering of a bowel and bladder program, including suppositories, enemas, manual evacuation, intermittent catheterization, digital stimulation associated with a bowel program, tasks related to external stoma care including but not limited to pouch changes, measuring intake and output, and skin care surrounding the stoma area;
  - routine preventive skin care and care of Stage 1 pressure ulcers;

- feeding and irrigation through a permanently placed feeding tube inserted in a surgically created orifice or stoma; and
  - other tasks that an RN may reasonably conclude as safe to exempt from delegation based on the RN assessment.
- Tasks that, in the context of an ALF, are not allowed to be designated as HMAs include:
    - intermittent catheterization; and
    - administration of insulin or other injectable medications prescribed in the treatment of diabetes mellitus.

### **3.0 Resources**

[Crosswalk](#) for New Chapter 553 Licensing Standards for Assisted Living Facilities

### **4.0 Contact Information**

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.