



Long-Term Care Regulatory Provider Letter

Number: PL 2021-33
Title: Authority to Enter Long-term Care Facilities
Provider Types: Assisted Living Facilities (ALF), Home and Community Support Services Agencies (HCSSA), Home and Community-based Services (HCS), Intermediate Care Facilities for Individuals with an Intellectual Disability or Related Condition (ICF/IID), and Nursing Facilities (NF)
Date Issued: September 2, 2021

1.0 Subject and Purpose

The purpose of this letter is to remind ALFs, HCS program providers, ICF/IIDs, and NFs that they must allow persons providing critical assistance and providers of essential services to enter the facility if they pass the facility’s COVID-19 screening. This includes allowing HCSSA providers and their staff to conduct service delivery with residents.

2.0 Policy Details & Provider Responsibilities

2.1 Authority Allowed by Emergency Rules

The following emergency rules require “persons providing critical assistance” and “providers of essential services” to be allowed to enter the facility if they pass the COVID-19 screening.

- ALF - [26 TAC §553.2003\(e\)](#)
- HCSSA - [26 TAC §558.960\(c\)](#)
- HCS - [40 TAC §9.198\(b\)](#)
- ICF/IID – [26 TAC §551.47\(e\)](#)
- NF – [26 TAC §554.2803\(e\)](#)

HCSSA staff have legal authority to enter a long-term care facility to provide services to the facility's residents who are agency clients. HCSSA staff entering a long-term care facility must follow the infection control protocols of the facility including COVID-19 testing requirements.

Providers of essential services include HCSSA employees and contractors, including but not limited to physicians, nurses, hospice aides, home health aides, attendants, social workers, therapists, spiritual counselors, and volunteers in any of those roles.

2.2 Essential Skilled Services in an ALF

ALFs may only provide skilled services for a limited purpose. The stipulations are outlined in 26 TAC §553.7(b)(3) and the period of provision must not exceed 30 days. Otherwise, any skilled services including hospice or provisions of personal care services for resident care must be coordinated with an outside HCSSA provider.¹

2.3 Essential Hospice Services in an HCS

If an individual elects hospice services, the HCS program provider must coordinate skilled services and allow delivery of such services per 40 TAC §9.178(a)(1).²

2.4 Essential Hospice Services in an ICF/IID

If an individual elects to receive hospice care, the program provider must ensure services are provided, as established by individual's plan of care, with the designated hospice and follow 26 TAC §261.274.³

2.5 Essential Hospice Services in a NF

When a NF contracts for hospice services for residents, the NF must honor the contract between the hospice and the NF related to how the contracted services are to be coordinated, supervised, and performed. NF staff may perform hospice-related services only with the express authorization of the hospice.⁴

¹ [26 TAC §553.7 \(b\)](#)

² [40 TAC §9.178\(a\)\(1\)](#)

³ [26 TAC §261.274](#)

⁴ [26 TAC §554.1926\(a\)\(1\)](#)

September 2, 2021

2.6 Denied Access to a LTCR Facility

If HCSSA staff is unjustifiably denied access to a facility (e.g., for reasons other than not passing COVID-19 screening), the HCSSA is encouraged to send an email to LTCRpolicy@hhs.texas.gov that includes a description of the situation, the name and location of the facility, the name and location of the HCSSA, and the name and phone number of a contact person for the HCSSA.

If an ALF, HCS program provider, ICF/IID, or a NF unjustifiably denies access to persons providing critical assistance, HHSC may take enforcement action, including administrative penalties in accordance with each program's applicable requirements.

3.0 Resources

None.

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 or call (512) 438-3161.